

---

---

**TIGARD CITY COUNCIL  
MEETING**

**SEPTEMBER 21, 2004 6:30 p.m.**

**TIGARD CITY HALL  
13125 SW HALL BLVD  
TIGARD, OR 97223**



**PUBLIC NOTICE:**

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead-time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting date by calling: 503-639-4171, ext. 2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

**SEE ATTACHED AGENDA**

**A G E N D A**  
**TIGARD CITY COUNCIL WORKSHOP MEETING**  
September 21, 2004

6:30 PM

1. **WORKSHOP MEETING**
  - 1.1 Call to Order - City Council
  - 1.2 Roll Call
  - 1.3 Pledge of Allegiance
  - 1.4 Council Communications & Liaison Reports
  - 1.5 Call to Council and Staff for Non Agenda Items
  
2. **JOINT MEETING WITH THE BUDGET COMMITTEE**
  - a. Staff Report: Craig Prosser, Finance
  - b. Council Discussion
  
3. **REVIEW INITIAL DRAFT UPDATED PARKS SYSTEM DEVELOPMENT CHARGE METHODOLOGY**
  - a. Staff Report: Dan Plaza, Public Works
  - b. Council Discussion
  
4. **PRESENT EXECUTIVE SUMMARY OF PARK & RECREATION ASSESSMENT SURVEY**
  - a. Staff Report: Dan Plaza, Public Works
  - b. Council Discussion
  
5. **SOCIAL SERVICES GRANT REVIEW & FUNDING PROCESS**
  - a. Staff Report: Liz Newton, City Administration
  - b. Council Discussion
  
6. **TRI-MET COMMUTER RAIL STATION DESIGN**
  - a. Staff Report: Jim Hendryx, Community Development
  - b. Council Discussion
  
7. **CONTINUE DISCUSSION OF COUNCIL GROUNDRULES – VISITOR’S AGENDA**
  - a. Council Discussion
  
8. **PROCESS FOR CONTIGUOUS ANNEXATIONS**
  - a. Staff Report: Jim Hendryx, Community Development Director

b. Council Discussion

9. COUNCIL LIAISON REPORTS

10. NON-AGENDA ITEMS

11. ADJOURNMENT

I:\ADM\CATHY\CCA\2004\040921.DOC

AGENDA ITEM # 2  
FOR AGENDA OF September 21, 2004

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Joint Meeting with Tigard Budget Committee

PREPARED BY: Craig Prosser DEPT HEAD OK CP CITY MGR OK UA

ISSUE BEFORE THE COUNCIL

Quarterly informational meeting with the Budget Committee. No action required.

STAFF RECOMMENDATION

Receive and discuss information. No action required.

INFORMATION SUMMARY

The Budget Committee meets during April and May each year to review and approve the annual budget. It also meets quarterly thereafter to receive and discuss information regarding the financial affairs of the City. The September 21 meeting will be the first Quarterly meeting of FY 2004-05.

At this meeting, staff will update the citizen members of the Committee on financial issues that have developed since the Committee last met in May, and will receive committee comments and suggestions. The proposed agenda for this meeting includes:

1. Budget Amendments
  - a. Report on actual and planned Budget Amendments in FY 2004-05
2. Financial Reports
  - a. Monthly Report to Council & Budget Committee
3. Discussion of November Ballot Measures
  - a. Measure 37 – Governments Must Pay Owners, Or Forego Enforcement, When Certain Land Use Restrictions Reduce Property Value
  - b. Measure 38 – Abolishes SAIF; State Must Reinsure, Satisfy SAIF's Obligations; Dedicates Proceeds, Potential Surplus to Public Purposes
4. Bull Mountain Annexation
  - a. Status Report (Ballot Measures referred)
  - b. Phase in of taxes
  - c. Potential Parks SDC dedication

5. Telecommunications
  - a. Qwest/Verizon audit status
  - b. Privilege Tax
6. Library Status Report
  - a. Project completion/final cost
  - b. Operations/open hours
  - c. WCCLS Levy status

---

OTHER ALTERNATIVES CONSIDERED

None

---

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

NA

---

ATTACHMENT LIST

Letter to Budget Committee, with draft agenda and Ballot Measure Issue Papers.

---

FISCAL NOTES

No impact.

September 3, 2004

Mr. Craig Dirksen  
9131 SW Hill Street  
Tigard, OR 97223



Dear Craig,

The next meeting of the Tigard Budget Committee is scheduled for Tuesday, September 21, 2004 at 6:30 pm in Town Hall, 13125 SW Hall Blvd. This meeting will occur during a regular Council Workshop session. Enclosed with this letter is an agenda for the Budget Committee portion of this meeting along with summary information on Agenda item #3 – Review of Statewide Ballot Measures with potential Impact on Tigard.

We expect the Budget Committee portion of this meeting to last approximately 45 minutes. The Council will have other items on the workshop agenda, however, that may be of interest to Budget Committee members, so we encourage you to stay for those items. Other items on the workshop agenda that may be of interest to you include:

- Social Service Grant Review and Funding Process
- Presentation on the Parks and Recreation Assessment Survey
- Review of the initial draft of an update Parks SDC calculation methodology

Information of these three agenda items will be available on the City's website prior to the September 21 meeting.

Please contact Maureen Denny at 503-718-2487 or [maureen@ci.tigard.or.us](mailto:maureen@ci.tigard.or.us) to confirm your attendance at this meeting. We have already heard that Katie Schwab will not be able to attend.

I look forward to seeing you on the 21<sup>st</sup>.

Sincerely,

A handwritten signature in cursive script that reads "Craig Prosser".

Craig Prosser, Finance Director

cc: Bill Monahan, City Manager  
Jim Hendryx, Community Development Director  
Loreen Mills, Risk Manager  
Tom Imdieke, Financial Operations and Planning Manager  
Michelle Wareing, Management Analyst

## ***Budget Committee Agenda***

September 21, 2004

1. Budget Amendments
  - a. Report on actual and planned Budget Amendments in FY 2004-05
2. Financial Reports
  - a. Monthly Report to Council & Budget Committee
3. Discussion of November Ballot Measures
  - a. Measure 37 – Governments Must Pay Owners, Or Forego Enforcement, When Certain Land Use Restrictions Reduce Property Value
  - b. Measure 38 – Abolishes SAIF; State Must Reinsure, Satisfy SAIF's Obligations; Dedicates Proceeds, Potential Surplus to Public Purposes
4. Bull Mountain Annexation
  - a. Status Report (Ballot Measures referred)
  - b. Phase in of taxes
  - c. Potential Parks SDC dedication
5. Telecommunications
  - a. Qwest/Verizon audit status
  - b. Privilege Tax
6. Library Status Report
  - a. Project completion/final cost
  - b. Operations/open hours
  - c. WCCLS Levy status



**CITY OF TIGARD**

**Ballot Measure 38:**  
Abolishment of SAIF

**Exhibits:**

- Ballot title
- Explanatory statement
- League of Oregon Cities poll of cities for DAS review of financial impact
- Oregon Mayors Assn. resolution opposing Measure 38

**S U M M A R Y :** Measure 38 states it would abolish SAIF; SAIF must stop selling new policies of insurance on 1/1/05, stop renewing policies on 1/1/06 and be abolished on 1/1/07; the state must reinsure, satisfy SAIF's obligations; and dedicate proceeds, potential surplus, to public purposes.

**I M P A C T S   O N   T I G A R D:** Tigard has been insured through SAIF for workers' compensation for the majority of the last twenty years. During that time, SAIF has provided the lowest premium cost for coverage except for about four years at which time the City used Liberty NW as the provider of workers' comp (WC) insurance.

In Oregon, there are very few WC insurance carriers who will insure cities (SAIF, Liberty NW and City County Insurance Services who is actually a pool for members rather than a commercial insurance company). Tigard has requested quotes from the other two carriers in the past. There were two reasons SAIF has remained Tigard's carrier for the past several years: quotes from Liberty NW and CCIS were higher than SAIF or quotes were not provided because Liberty NW said they could not be competitive with SAIF's rates.

Tigard currently spends \$173,687 for WC coverage in the 04-05 fiscal year. It is unknown what the financial impact to Tigard would be if Measure 38 passes since it is not known how Liberty NW and CCIS would respond to the marketplace.

This measure is a hotly contested issue in Oregon and is getting press outside the state as well. A recent article appeared in the Oregonian on 8/9/04 which stated Liberty NW,



SAIF's main competitor, has been assisting with financing the measure's supporters to abolish SAIF.

The League of Oregon Cities was asked by the State's Department of Administrative Services to poll its members who use SAIF to determine what analysis had been done at the local level for WC carrier premiums. That review is attached.

The Oregon Mayors Association recently took a position on Measure 38 by passing a resolution to oppose the measure.

## Proposed by Initiative Petition

---

### MEASURE 38

#### **ABOLISHES SAIF; STATE MUST REINSURE, SATISFY SAIF'S OBLIGATIONS; DEDICATES PROCEEDS, POTENTIAL SURPLUS TO PUBLIC PURPOSES**

**RESULT OF "YES" VOTE:** "Yes" vote abolishes SAIF; state must reinsure, satisfy SAIF's current obligations (including pending policyholder claims against SAIF); dedicates proceeds, potential surplus to specified public purposes.

**RESULT OF "NO" VOTE:** "No" vote retains law authorizing SAIF, a public corporation, to sell and administer workers compensation insurance and to administer an accident fund for that purpose.

**SUMMARY:** State Accident Insurance Fund (SAIF) is a public corporation selling, administering workers compensation insurance, and administering accident fund for that purpose. Measure abolishes SAIF. Requires state to assume SAIF's authority over accident fund; reinsure fund; satisfy SAIF's obligations under its existing policies; use fifty percent of any excess surplus (meaning any funds exceeding reserves and surplus necessary to satisfy future liabilities) to satisfy policyholder claims in litigation before October 2003; transfer forty percent of any excess surplus to new fund; sell SAIF's assets; transfer proceeds to same fund; and reinsure, otherwise resolve SAIF's remaining liabilities. Dedicates new fund to supporting schools, local law enforcement; providing medications to seniors, medically needy; promoting job growth. Requires certain reports to legislature regarding rates for insurance premiums. Other provisions.

#### **ESTIMATE OF FINANCIAL IMPACT:**

The measure would reduce state revenue by approximately \$405 million per year and would reduce state expenditures by approximately \$301 million per year due to the elimination of SAIF.

The measure would require additional state government expenditures of \$1.8 million to \$5.5 million per year on a recurring basis with an additional one-time expenditure of \$2.2 billion to \$2.4 billion.

There will be a one time increase of state revenues of \$32.6 million from sale of real property.

The measure would require local government expenditures of \$2.6 million to \$10.5 million per year on a recurring basis.

There is no financial effect on local government revenues.

---

November 2, 2004 General Election

Ballot Measure 38

Explanatory Statement:

Ballot Measure 38 abolishes SAIF, the public corporation that sells workers' compensation insurance to and administers workers' compensation insurance for the state and other public and private entities and administers the Industrial Accident Fund for that purpose.

On January 1, 2005, SAIF must stop selling new policies of insurance. The Board of Directors of SAIF is abolished and its authority transferred to the Director of the Oregon Department of Administrative Services (DAS). The DAS Director and the Director of the Department of Consumer and Business Services (DCBS) are required to prepare a plan for the cessation of workers' compensation retail insurance business activities by the state. Such plan must include reinsurance of liabilities of the fund and satisfy SAIF's obligations under its existing policies.

On January 1, 2006, SAIF must cease renewing policies of insurance, and the DAS Director must reinsure a portion of the liabilities of SAIF Corporation and the Industrial Accident Fund. The measure requires the State Treasurer to set aside 50 percent of any funds exceeding reserves and surplus necessary to satisfy future liabilities of SAIF ("excess surplus") to be used to satisfy SAIF policyholder claims and claims against the Industrial Accident Fund in litigation prior to October 2003, which may be ultimately adjudicated. The State Treasurer then must transfer 80 percent of the remaining excess surplus to the Oregon Priorities Fund created by the measure. Moneys in the Oregon Priorities Fund are continuously appropriated to the Legislative Assembly for the purposes of supporting schools and local law enforcement, providing prescription medications to seniors and the medically needy, and promoting job growth through workforce training.

On January 1, 2007, SAIF is abolished. The DAS Director must reinsure or otherwise resolve the remaining liabilities of SAIF and the Industrial Accident Fund, and sell all of SAIF's real and personal property. The State Treasurer is required to deposit proceeds from the sale of SAIF's property and any excess surplus remaining after all the obligations of SAIF and the Industrial Accident Fund are satisfied in the Oregon Priorities Fund.

The DAS Director and State Treasurer are authorized to contract with independent outside persons or firms to provide advice and assistance in carrying out provisions of the measure.

The Board of Directors of SAIF Corporation may not challenge any provisions of the measure or take any action that undermines or otherwise weakens the full implementation of the measure.

The DCBS Director is instructed to report to the Governor and the Legislative Assembly regarding the requirement that premium rates for workers' compensation insurance set by the department not be excessive, inadequate or unfairly discriminatory.

## CITIES WHO HAVE WORKERS' COMP. INSURANCE THROUGH SAIF

(July 14, 2004)

- |  |   |   |
|--|---|---|
| <ul style="list-style-type: none"> <li>• Adair Village</li> <li>• Baker City</li> <li>• Butte Falls</li> <li>• Coos Bay</li> <li>• Cove</li> <li>• Enterprise</li> <li>• Forest Grove</li> <li>• Gladstone</li> <li>• Happy Valley</li> <li>• Hermiston</li> <li>• Hillsboro</li> <li>• Hood River</li> <li>• John Day</li> <li>• Jordan Valley</li> </ul> | <ul style="list-style-type: none"> <li>• Joseph</li> <li>• Lakeview</li> <li>• Lebanon</li> <li>• Lostine</li> <li>• Madras</li> <li>• Maupin</li> <li>• Medford</li> <li>• Milton-Freewater</li> <li>• Molalla</li> <li>• Mosier</li> <li>• North Bend</li> <li>• Oakridge</li> <li>• Paisley</li> <li>• Prairie City</li> </ul> | <ul style="list-style-type: none"> <li>• Redmond</li> <li>• Reedsport</li> <li>• Springfield</li> <li>• St. Helens</li> <li>• Sutherlin</li> <li>• Sweet Home</li> <li>• The Dalles</li> <li>• Tigard</li> <li>• Toledo</li> <li>• Umatilla</li> <li>• Vale</li> <li>• West Linn</li> <li>• Wilsonville</li> <li>• Winston</li> </ul> |
|--|---|---|

### Questions:

1. What is the amount of your premiums? (per year)
2. Has your city recently done an analysis of whether or not other providers would be more or less expensive?
3. If so, what was the conclusion (more expensive, less expensive, etc.)?

City	#1	#2	#3
Coos Bay	\$123,711	Yes	All were about the same.
Enterprise	\$16,500	No	N/A
Forest Grove	\$137,510	Yes	SAIF was a little more expensive, but decided not to switch this year.
Gladstone	\$53,339	No	Eliminating SAIF would make the market less competitive.
Hillsboro	\$663,267	No	N/A
Hood River	\$82,000	Yes	Get quotes every year. Switched back to SAIF a few years ago because it was cheaper.
John Day	\$2,063	Yes	SAIF was less expensive.
Joseph	\$3,580	No	N/A

City	#1	#2	#3
Lebanon	\$71,687	Yes	SAIF was less expensive.
Lostine	\$552	No	N/A
Medford	\$270,000		Compared two years ago. SAIF less expensive.
Milton-Freewater	\$67,827	Yes	Look annually. The appreciate SAIF's local office.
Mosier	\$538	No	N/A
North Bend	\$68,682	No	N/A
Oakridge	\$31,382	No	N/A
Redmond	\$132,304	No	N/A
Reedsport	\$32,000	Yes	CIS cheaper, but they have been happy with SAIF.
St. Helens	\$59,573	Yes	SAIF was less expensive.
Sutherlin	\$49,498	Yes	SAIF was less expensive.
Tigard	\$173,687	Yes	SAIF was less expensive. It is important to remember there are only three provider options for Oregon cities.
Toledo	\$39,757	Yes	Liberty said they wouldn't cover them (they cover the volunteer firefighters at too high of an assumed wage).
Umatilla	\$27,549	No	N/A
West Linn	\$115,967	Yes	Has a meeting with another provider, no cost analysis yet.

**Oregon Mayors Association  
Resolution Opposing Measure 38 (Abolishment of SAIF)**

WHEREAS, Oregon cities have a responsibility and are held accountable for spending every tax dollar efficiently; and

WHEREAS, Every extra dollar spent on workers compensation insurance is a dollar that can not be spent on police, fire, clean water, parks, streets or libraries; and

WHEREAS, Many Oregon cities have chosen to purchase workers compensation insurance from SAIF; and

WHEREAS, SAIF's injury-prevention programs have helped make workplaces safer, reduced injuries and lowered the cost of claims; and

WHEREAS, the abolition of SAIF significantly reduces competition in the marketplace which hurts all employers whether covered by SAIF or another insurer;

NOW, THEREFOR, BE IT RESOLVED that the Oregon Mayor's Association opposes Measure 38 (Abolishment of SAIF).



#### **CITY OF TIGARD**

**Ballot Measure 37:** *"Government must pay owners, or forgo enforcement, when certain land use restrictions reduce property value"*

#### **Exhibits:**

- *Ballot Measure 3 and Explanatory Statement;*
- *Lake Oswego City Attorney's Council Report on Ballot Measure 37;*
- *Oregon Planners' Journal selected articles*
- *Oregonians in Action Article*

**SUMMARY:** In general terms Measure 37 requires that if land use regulations reduce the value of land, a government must either pay the property owner for lost value, or forgo enforcement of the regulation. Measure 37 is similar to Measure 7 passed in the 2000 General Election, but subsequently found invalid by the Oregon Supreme Court because it amended multiple, unrelated parts of the State's Constitution. Measure 37 avoids this issue by amending Oregon statutes rather than the Constitution.

#### **IMPACTS ON TIGARD:**

Measure 37 states that if a governmental entity (including the State, Metro, a city or a county) "enacts" or "enforces" a land use regulation that restricts the use of property, and has the effect of reducing the value of the property it must:

- Pay the property owner compensation equal to the reduction in value.
- As an alternative, the public entity may forgo enforcement of the regulation against that property rather than paying compensation.
- The provision for compensation does not apply if the regulation was enacted before the property was acquired by the owner or a "family member" of the owner.
- A family member includes; spouses, children, parents, certain in-laws, aunts and uncles, nieces and nephews, stepparents, stepchildren, grandparents and grandchildren – or the estates of any of these relatives.
- In the case of property passed down from parents or grandparents to the current owner, the right to compensation could apply to regulations adopted many years ago.

#### Land Use Regulations subject to compensation requirement.

Land use regulations include:

- Statutes regulating the use of land or any interest in land.

- LCDC administrative rules and goals.
- Local government comprehensive plans, zoning ordinances, land division ordinances and transportation ordinances.
- Metro framework plans, functional plans and planning goals and objectives.
- Statutes and administrative rules governing farming and forest practices.

### Exceptions

The right to compensation does not apply to:

- Regulations prohibiting activities historically recognized as "nuisances" under common law.
- Public health and safety regulations such as fire and building codes, as well as health, sanitation, solid waste, hazardous waste and pollution control regulations.
- Regulations that are required in order to comply with federal law.
- Regulations prohibiting or restricting pornography or nude dancing.
- Regulations enacted before the acquisition of the property by the owner or a "family member" (discussed above).

### What are the Procedures under Measure 37?

If the land use regulation was enacted before the effective date of Measure 37, the property owner must:

- Submit a demand for compensation within two years of the effective date of the Measure.
- Or the date the public entity applies the regulation as an approval criterion in a development application submitted by the property owner, whichever is later.
- If the regulation is enacted after the effective date of Measure 37, written demand must be made within two years of the enactment of the regulation.
- Or the date the owner submits a land use application for which the regulation is a criterion, whichever is later.

In lieu of payment, the public entity may elect to "modify, remove or not to apply the land use regulation and to allow the owner to use the property for a use permitted at the time the owner acquired the property." The Measure provides that this may occur despite any contrary requirements in state statutes or local ordinances.

If the public entity continues to enforce the regulation against the property 180 days after the written demand is made:

- It must pay the property owner an amount equal to the reduction in the fair market value of the property resulting from the enactment or enforcement of the regulation.



- If it fails to pay, the property owner may sue the public entity in Circuit Court for the compensation plus attorney fees, court costs and any other expenses "reasonably incurred" in collecting the compensation.
- In addition, if the claim for compensation has not been paid within two years from the date it "accrues," the owner must be allowed to use the property as permitted at the time the owner acquired the property.

#### How would Measure 37 apply to Tigard?

It has to be assumed that Measure 37 would apply to those regulations within the Community Development Code (CDC) and Tigard's Comprehensive Plan that "restrict the use of property." It is obvious that almost any regulation within the CDC or Comprehensive Plan could be said to restrict use in some way.

Tigard's CDC regulations relate to:

- General land use categories (residential, commercial, industrial, etc.), types of uses allowed in various zones within the various zoning districts (for example, for residential: single family, multi-family, group care homes, etc.; for commercial: retail sales, services, lodging, medical facilities, restaurants, auto sales, etc.)
- Lot size and dimensions, lot coverage, floor area ratio, densities, height, setbacks, lot coverage, landscaping and screening standards, open space requirements, parking standards and building design standards.
- Certain districts have unique design standards, including the Tigard Triangle, Washington Square, etc.
- Tree and Sign standards.

#### What's this all mean?

If an owner of real property in the City were to determine that any of these regulations were enacted after he or she acquired the property, or were enacted after the owner's ancestors (as far back as grandparents) or other family members acquired the property, the owner could make a claim against the City for compensation under Measure 37. If the fair market value of the property, without the challenged restriction, were more than the value of the property with the restriction, the City would have to either pay the owner the difference in value or release the property from the restriction. An unanswered question is how do you calculate this? It is assumed that an appraisal would be needed to make such a determination.

If the City chose to not apply the restriction, the owner would be allowed to use the property as permitted at the time the property was acquired or, presumably, as permitted when the relative acquired the property. If the ownership by a parent or grandparent went back a number of decades, in Tigard's case to the 1960's before the City was incorporated, it could result in the owner possessing

a parcel with virtually no development or use restrictions. It is difficult to determine the potential liability that exists through long term ownership in the community.

An additional question arises about land use regulations enacted by one level of government, but applied by another. Can the governmental unit that applies another unit's regulations choose not to enforce those regulations? This could be a particular issue in the Portland metropolitan area where local governments are responsible for developing policies and procedures to implement regulations developed by Metro.

Measure 37 does not limit the number of regulations that may be combined in a claim. Nor does it prohibit claimants from making multiple claims, as long as all claims are made within the time limitations discussed above.

Following the adoption of Measure 37, the City would need to carefully consider whether to adopt any amendments to the City's land use regulations if those regulations could be viewed as being more restrictive. For example, after approval of Measure 7, in 2000, the City delayed adopting the Transportation System Plan (TSP) until the court determined Measure 7 was unconstitutional. The TSP established new street standards that in some cases required additional right of way dedication and improvements over what had been previously required.

Jurisdictions throughout Washington County, including Tigard, have been working with Metro on Goal 5. The Goal 5 program and subsequent land use amendment potentially could limit or further restrict the use of certain properties throughout Washington County. Goal 5 is an example where more restrictive standards could potentially be considered.

Another consideration will be the effect on the Downtown Improvement Plan. With passage of Measure 37, consideration will need to be given to any potential changes resulting from the Downtown Improvement Plan. This is potentially another example where land use standards could be viewed as being more restrictive.

As noted before, the Measure does not set out any procedures or criteria for how a government decides when to pay compensation and when to release property from regulations. If Measure 37 passes, the City would need to implement procedures and payment or release criteria.

Measure 37 is silent about annexations. It does not state whether regulations are considered to be "enacted" with annexation to the City. The effective date of an annexation is typically when city regulations are first applied to a property. Or for annexations, were regulations "enacted" when they were first made part of the city code, even if they did not apply to the subject property until after annexation? This is particularly interesting with the Bull Mountain Annexation heading to the same ballot as Measure 37. The County basically adopted Tigard's zoning standards in 1997 for Bull Mountain as part of Tigard's Urban Services Agreement with the County.

### What is the financial impact of Measure 37?

The official estimate of the financial impact of this measure indicates that local governments in Oregon will have to spend between \$46 and \$300 million per year in administrative costs to implement this measure and an unknown amount to pay claims. The State of Oregon would have to spend between \$18 million and \$44 million per year to pay administrative costs and an unknown amount to pay claims.

OFFICE OF THE SECRETARY OF STATE

BILL BRADBURY  
SECRETARY OF STATE



ELECTIONS DIVISION

JOHN LINDBACK  
DIRECTOR

141 STATE CAPITOL  
SALEM, OREGON 97310-0722

ELECTIONS — (503) 986-1518

March 17, 2003

To All Interested Parties:

Secretary of State Bill Bradbury is responsible for the pre-election review of proposed initiative petitions for compliance with the procedural constitutional requirements established in the Oregon Constitution for initiative petitions. This review will be completed before approving the form of the cover and signature sheets for the purpose of circulating the proposed initiative petition to gather signatures.

The Secretary of State is seeking public input on whether proposed initiative petition (#36), satisfies the procedural constitutional requirements for circulation as a proposed initiative petition. Petition #36 was filed in our office on March 14, 2003, by Eugene Prete and Barbara Prete, for the General Election of November 2, 2004.

Enclosed is a copy of the text of this proposed initiative petition. If you are interested in providing comments on whether the proposed initiative petition meets the procedural constitutional requirements, please write to the secretary at the Elections Division in the State Capitol. Your comments, if any, must be received by the Elections Division no later than April 7, 2003, in order for them to be considered in the review.

BILL BRADBURY  
Secretary of State

BY: *Summer Davis*

Summer Davis  
Compliance Specialist



## Proposed by Initiative Petition

---

### MEASURE 37

#### GOVERNMENTS MUST PAY OWNERS, OR FORGO ENFORCEMENT, WHEN CERTAIN LAND USE RESTRICTIONS REDUCE PROPERTY VALUE

**RESULT OF "YES" VOTE:** "Yes" vote requires that governments pay owners, or forgo enforcement by repealing, changing, not applying restrictions, when certain land use restrictions reduce owners' property value.

**RESULT OF "NO" VOTE:** "No" vote rejects requiring that governments pay owners or forgo enforcement by repealing, changing, not applying restrictions, when certain land use restrictions reduce property value.

**SUMMARY:** Currently, Oregon Constitution requires government(s) to pay owner "just compensation" when condemning private property or taking it by other action, including laws precluding all substantial beneficial or economically viable use. Measure enacts statute requiring that when state, city, county, metropolitan service district enacts or enforces land use regulation that restricts use of private real property or interest thereon, government must pay owner reduction in fair market value of affected property interest, or forgo enforcement. Governments may repeal, change, or not apply restrictions in lieu of payment; if compensation not timely paid, owner not subject to restrictions. Applies to restrictions enacted after "family member" (defined) acquired property. Creates civil right of action including attorney fees. Provides no new revenue source for payments. Certain exceptions. Other provisions.

#### ESTIMATE OF FINANCIAL IMPACT:

The measure would require state administrative expenditures to respond to claims for compensation of between \$18 million and \$44 million per year.

The measure may require compensation to landowners. The amount of state expenditures needed to pay claims for compensation cannot be determined.

There is no financial effect on state revenues.

The measure would require local government administrative expenditures to respond to claims for compensation of between \$46 million and \$300 million per year.

The measure may require compensation to landowners. The amount of local government expenditures needed to pay claims for compensation cannot be determined.

The effect of the measure on local government revenues cannot be determined.

---

November 2, 2004 General Election

Ballot Measure 37

Explanatory Statement:

Ballot Measure 37 adds a new statute to ORS chapter 197. As specified in the measure, the owner of private real property is entitled to receive just compensation when a land use regulation is enacted after the owner or a family member became the owner of the property if the regulation restricts the use of the property and reduces its fair market value.

If a property owner proves that a land use regulation restricts the use of the owner's property, and reduces its value then the government responsible for the regulation will have a choice: pay the owner of the property an amount equal to the reduction in value or modify, change or not apply the regulation to the owner's property.

The measure allows the state, county, city or metropolitan service district to adopt procedures for processing claims for compensation, but prohibits those procedures from being treated as a prerequisite to the filing of a claim in circuit court.

The measure does not apply to commonly and historically recognized public nuisances, public health and safety regulations, regulations required to comply with federal law, and regulations restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing.

The measure specifies that compensation is due if the regulation remains in force 180 days after the owner makes written demand for compensation. After that time, the present owner may file an action in the circuit court in the county in which the property is located. The measure also specifies that the present owner is entitled to reasonable attorney fees, expenses, costs and other disbursements reasonably incurred to collect compensation.

The measure provides no new revenue source for payments, if any, required under this measure.

The measure defines several terms that are used in the statute including "family member" which is defined as wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

The following provisions are added to and made a part of ORS chapter 197:

- (1) If a public entity enacts or enforces a new land use regulation or enforces a land use regulation enacted prior to the effective date of this amendment that restricts the use of private real property or any interest therein and has the effect of reducing the fair market value of the property, or any interest therein, then the owner of the property shall be paid just compensation.
- (2) Just compensation shall be equal to the reduction in the fair market value of the affected property interest resulting from enactment or enforcement of the land use regulation as of the date the owner makes written demand for compensation under this act.
- (3) Subsection (1) of this act shall not apply to land use regulations:
  - (A) Restricting or prohibiting activities commonly and historically recognized as public nuisances under common law. This subsection shall be construed narrowly in favor of a finding of compensation under this act;
  - (B) Restricting or prohibiting activities for the protection of public health and safety, such as fire and building codes, health and sanitation regulations, solid or hazardous waste regulations, and pollution control regulations;
  - (C) To the extent the land use regulation is required to comply with federal law;
  - (D) Restricting or prohibiting the use of a property for the purpose of selling pornography or performing nude dancing. Nothing in this subsection, however, is intended to affect or alter rights provided by the Oregon or United States Constitutions; or
  - (E) Enacted prior to the date of acquisition of the property by the owner or a family member of the owner who owned the subject property prior to acquisition or inheritance by the owner, whichever occurred first.
- (4) Just compensation under subsection (1) of this act shall be due the owner of the property if the land use regulation continues to be enforced against the property 180 days after the owner of the property makes written demand for compensation under this section to the public entity enacting or enforcing the land use regulation.
- (5) For claims arising from land use regulations enacted prior to the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the effective date of this act, or the date the public entity applies the land use regulation as an approval criteria to an application submitted by the owner of the property, whichever is later. For claims arising from land

use regulations enacted after the effective date of this act, written demand for compensation under subsection (4) shall be made within two years of the enactment of the land use regulation, or the date the owner of the property submits a land use application in which the land use regulation is an approval criteria, whichever is later.

- (6) If a land use regulation continues to apply to the subject property more than 180 days after the present owner of the property has made written demand for compensation under this act, the present owner of the property, or any interest therein, shall have a cause of action for compensation under this act in the circuit court in which the real property is located, and the present owner of the real property shall be entitled to reasonable attorney fees, expenses, costs, and other disbursements reasonably incurred to collect the compensation.
- (7) A metropolitan service district, city, or county, or state agency may adopt or apply procedures for the processing of claims under this act, but in no event shall these procedures act as a prerequisite to the filing of a compensation claim under subsection (6) of this act, nor shall the failure of an owner of property to file an application for a land use permit with the local government serve as grounds for dismissal, abatement, or delay of a compensation claim under subsection (6) of this act.
- (8) Notwithstanding any other state statute or the availability of funds under subsection (10) of this act, in lieu of payment of just compensation under this act, the governing body responsible for enacting the land use regulation may modify, remove, or not to apply the land use regulation or land use regulations to allow the owner to use the property for a use permitted at the time the owner acquired the property.
- (9) A decision by a governing body under this act shall not be considered a land use decision as defined in ORS 197.015(10).
- (10) Claims made under this section shall be paid from funds, if any, specifically allocated by the legislature, city, county, or metropolitan service district for payment of claims under this act. Notwithstanding the availability of funds under this subsection, a metropolitan service district, city, county, or state agency shall have discretion to use available funds to pay claims or to modify, remove, or not apply a land use regulation or land use regulations pursuant to subsection (6) of this act. If a claim has not been paid within two years from the date on which it accrues, the owner shall be allowed to use the property as permitted at the time the owner acquired the property.
- (11) Definitions -- for purposes of this section:
  - (A) "Family member" shall include the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law,



mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent, or grandchild of the owner of the property, an estate of any of the foregoing family members, or a legal entity owned by any one or combination of these family members or the owner of the property.

- (B) "Land use regulation" shall include:
- (i) Any statute regulating the use of land or any interest therein;
  - (ii) Administrative rules and goals of the Land Conservation and Development Commission;
  - (iii) Local government comprehensive plans, zoning ordinances, land division ordinances, and transportation ordinances;
  - (iv) Metropolitan service district regional framework plans, functional plans, planning goals and objectives; and
  - (v) Statutes and administrative rules regulating farming and forest practices.
- (C) "Owner" is the present owner of the property, or any interest therein.
- (D) "Public entity" shall include the state, a metropolitan service district, a city, or a county.
- (12) The remedy created by this act is in addition to any other remedy under the Oregon or United States Constitutions, and is not intended to modify or replace any other remedy.
- (13) If any portion or portions of this act are declared invalid by a court of competent jurisdiction, the remaining portions of this act shall remain in full force and effect.

RECEIVED  
03 MAR 14 PM 3 34  
BILL BRADBURY  
SECRETARY OF STATE



# City Attorney's Office

## Council Report

---

To: Judie Hammerstad, Mayor  
Members of Lake Oswego City Council  
Doug Schmitz, City Manager

From: David Powell, City Attorney

Date: July 29, 2004

Subject: 2004 Ballot Measure 37 (Initiative Petition #36)

On July 21st, Secretary of State Bill Bradbury announced that Initiative Petition #36 had received enough valid signatures to qualify for the November 2, 2004 General Election ballot. Two days ago, the Initiative was designated as Ballot Measure 37, and will be referred to as such in this memo.

In general terms, Measure 37 requires that, if a land use regulation reduces the value of land, a government entity must either pay the property owners for the reduced value or forgo enforcement of the regulation. The voters adopted a similar initiative, Ballot Measure 7, in the 2000 General Election. However the Oregon Supreme Court invalidated Measure 7 because it violated the provision of the Oregon Constitution that prohibits amending multiple, unrelated parts of the Constitution through a single ballot measure. Measure 37 avoids this issue by amending the Oregon statutes rather than the Constitution.

### EFFECT OF MEASURE 37

#### General Rule

Measure 37 provides that if a public entity (including the State, Metro, a city or a county) "enacts" or "enforces" a land use regulation that restricts the use of property, and has the effect of reducing the value of the property, the public entity must pay the owner compensation equal to the reduction in value. As an alternative, the public entity may forgo enforcement of the regulation against that property rather than paying compensation.

The right to compensation does not apply if the regulation was enacted before the property was acquired by the owner or a "family member" of the owner. The measure defines "family member" as including spouses, children, parents, certain in-laws, aunts and uncles, nieces and nephews, stepparents, stepchildren, grandparents and grandchildren – or the estates of any of these relatives. Consequently, in the case of property passed down from parents or grandparents

to the current owner, the right to compensation could apply to regulations adopted many years ago.

Land Use Regulations subject to compensation requirement.

The compensation requirement applies to “land use regulations,” which are defined as including:

- Statutes regulating the use of land or any interest in land;
- LCDC administrative rules and goals;
- Local government comprehensive plans, zoning ordinances, land division ordinances and transportation ordinances;
- Metro framework plans, functional plans and planning goals and objectives; and
- Statutes and administrative rules governing farming and forest practices.

Exceptions

The right to compensation does not apply to:

- Regulations prohibiting activities historically recognized as “nuisances” under common law;
- Public health and safety regulations such as fire and building codes, as well as health, sanitation, solid waste, hazardous waste and pollution control regulations;
- Regulations that are required in order to comply with federal law;
- Regulations prohibiting or restricting pornography or nude dancing; and
- Regulations enacted before the acquisition of the property by the owner or a “family member” (discussed above).

Procedure

If the land use regulation was enacted before the effective date of Measure 37, the claimant must file a written demand for compensation within two years of the effective date of the Measure, or the date the public entity applies the regulation as an approval criterion in a development application submitted by the property owner, whichever is later.. If the regulation is enacted after the effective date of Measure 37, written demand must be made within two years of the enactment of the regulation, or the date the owner submits a land use application for which the regulation is a criterion, whichever is later.

As discussed above, in lieu of payment, the public entity may elect to “modify, remove or not to (sic) apply the land use regulation . . . to allow the owner to use the property for a use permitted

at the time the owner<sup>1</sup> acquired the property.” The Measure provides that this may occur despite any contrary requirements in state statutes.

If the public entity continues to enforce the regulation against the property 180 days after the written demand is made, it must pay the property owner an amount equal to the reduction in the fair market value of the property resulting from the enactment or enforcement of the regulation. If it fails to pay, the property owner may sue the public entity in Circuit Court for the compensation plus attorney fees, court costs and any other expenses “reasonably incurred” in collecting the compensation. In addition, if the claim for compensation has not been paid within two years from the date it “accrues,” the owner must be allowed to use the property “as permitted at the time the owner<sup>2</sup> acquired the property.”

#### MEASURE 37 APPLIED TO LAKE OSWEGO

Measure 37 would apply to those regulations within the Community Development Code (CDC) and the Lake Oswego Comprehensive Plan that “restrict the use of property.” While the quoted phrase is not defined in the Measure, arguably almost any regulation within the CDC or Comprehensive Plan could be said to “restrict” use in some way.

CDC regulations relate to general categories of use (residential, commercial, industrial, etc.), types of uses allowed in various zones within the general categories (for example, for residential: single family, multi-family, group care homes, etc.; for commercial: retail sales, services, lodging, medical facilities, restaurants, auto sales, etc.) lot size and dimensions, lot coverage, floor area ratio, densities, height, setbacks, lot coverage, landscaping and screening standards, open space requirements, parking standards and building design standards. Certain districts have unique design standards, including the Downtown Redevelopment District, Old Town District and West Lake Grove Design District. It could also be argued that Measure 37 would apply to much of the Lake Oswego Tree Code and Sign Code.

If an owner of real property in the City were to determine that any of these regulations were enacted after he or she acquired the property, or were enacted after the owner’s ancestors (as far back as grandparents) or other family members acquired the property, the owner could make a claim against the City for compensation under Measure 37. If the fair market value of the property without the challenged restriction were more than the value of the property with the restriction, the City would have to either pay the owner the difference in value or release the property from the restriction.

---

<sup>1</sup> The use here of only the term “owner” appears to be an error as it fails to take into account those instances in which the land use regulation was enacted before acquisition by the claimant/owner, but after acquisition of the by an ancestor “family member” of the owner. See discussion under section titled “General Rule.”

<sup>2</sup> See footnote 1.

If the City chose to release the restriction, the owner would be allowed to use the property as permitted at the time the property was acquired or, presumably, as permitted when the ancestor acquired the property. If the ownership by a parent or grandparent went back a number of decades, and if the entire current Code were challenged and released, it could result in the owner possessing a parcel with virtually no development or use restrictions.

Measure 37 does not limit the number of regulations that may be combined in a claim. Nor does it prohibit claimants from making multiple claims, as long as all claims are made within the time limitations discussed under "Procedure," above.

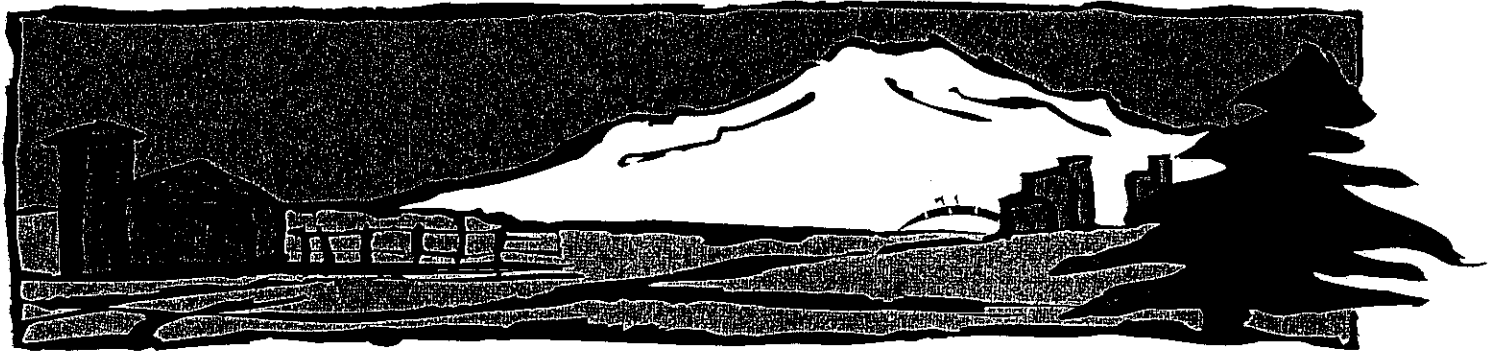
Following the adoption of Measure 37, the City Council would need to carefully consider whether any proposed amendments to City land use regulations presented in the future could be viewed as more restrictive than the status quo. If so, additional claims for compensation could be expected following adoption of the amendments.

The Measure establishes no criteria or a process for how a government entity decides when to pay compensation and when to release property from regulations. If Measure 37 passes, it would be advisable for the Council to adopt claim procedures and payment or release criteria.

Measure 37 does not address annexations. The Measure expressly exempts land use regulations "enacted" prior to the date the property was acquired by the owner (or ancestor). The Measure does not state whether regulations are considered to be "enacted" as to a specific property as of the date that property is annexed to the City (annexation being when those regulations are first applied to the property), or considered to be "enacted" when first made part of the Code, even if they did not apply to the subject property until it was annexed at a later time.

The Measure also does not address whether rezoning property within the City amounts to "enacting" new regulations for that property, or merely applying previously enacted zone restrictions.

Finally the Measure does not specify whether the term "property owner" includes corporate entities. If so, this could expand the potential extent of the Measure's retroactivity.



# Oregon Planners' Journal

VOLUME 23• NUMBER 7

AUGUST/SEPTEMBER 2004

## Ballot Measure 37 Sounds Death Knell for Land Use Planning in Oregon

By Bob Stacey, AICP, 1000 Friends of Oregon

Ballot Measure 37 (BM-37) appears to be about "compensation" for losses in the market value of property due to zoning changes. But what it's really about is gutting the land use planning system of this state. BM-37 gives government a "choice" when confronted by a property owner's claim: either pay the difference in value resulting from not allowing a use that was permitted when the owner (or family member) first acquired the property; or waive, modify or repeal the regulation and allow the owner a use prohibited by current land use regulations.

### How does it work?

BM-37 requires government to pay compensation when "land use regulations" reduce property values. The right to compensation is triggered by enactment of a regulation after the "acquisition of the property by the owner or a family member of the owner," which is defined to include a parent or grandparent of the current owner.

BM-37 would establish the date on which an owner acquired property as a wild card that would supersede land use policy in all Oregon cities and counties. The relatively recent adoption dates of important city and county zoning ordinances, together with the long tenure of title on many properties, will cause BM-37 to generate many compensation claims. Zoning adoption and amendment dates for cities are a complicated pastiche, dating from 1924 in Portland, and with many important changes over the years. For counties, key dates range from the 1960s through the mid 1980s; some counties had no zoning before the 1970s.

### What will it cost?

The jurisdiction may elect to "modify, remove, or not to apply" land use regulations and allow the property owner to build uses "permitted at the time the owner acquired the property." Or, the government can pay "compensation" to the property owner. Although **BM-37 obligates governments to pay tax dollars to compensate owners**, it creates **no new source of revenue to fund the compensation**.

State and local governments lack money to pay even a small number of the compensation claims BM-37 will generate. For example, the same family has owned a 1,800-acre cattle ranch since 1942 (See The Ranch, pg. 6). BM-37

See **BALLOT MEASURE 37**, Page 14

## What Is OAPA's Position on BM-37? What Can You Do?

By Bob Clay, OAPA President

It should come as no surprise that the Board of the Oregon Chapter of the American Planning Association (OAPA) strongly opposes Ballot Measure 37 (BM-37). We oppose BM-37 for a variety of reasons, perhaps the most obvious of which is that it would create a chaotic and costly two-tier "parent or waiver" system that would unravel Oregon's land use planning system. OAPA is undertaking steps to inform its members, allied professions, decision makers, and the general public of the potential consequences and ramifications of this measure. Most of the articles in this Journal focus on the issues and impacts of BM-37.

### What Are We Doing?

OAPA has developed a general policy position on regulatory zoning for monetary compensation and waiver of land use regulations. The policy position is contained in the Chapter's Policy Brochure and is made available and distributed to planning decision-makers and allied professions. OAPA's Legislative Policy Advisory Committee (LPAC), led by Ed Sullivan, Kristin Greene, and Sarah Rouse and others have already prepared background information on BM-37 for distribution to decision-makers and other organizations. Current efforts focus on the preparation of Amicus briefs, creation of public awareness of the issues, publication of news stories, articles, and editorials, and exchanges of ideas.

See **OAPA**, Page 12



## Planning & Design for the Future

Creativity, Integrity, and Skill

- strengthening our communities
- performing exciting work
- serving our clients



[www.otak.com](http://www.otak.com)

### Parametrix, Inc.

Consultants in Engineering and Environmental Sciences

700 NE Multnomah, Suite 1160  
Portland, OR 97232  
503-233-2400 • 360-694-5020 • Fax: 503-233-4825  
[www.parametrix.com](http://www.parametrix.com)  
E-mail: dsiegel@parametrix.com

### David M. Siegel, AICP

Quality Service Through Employee Ownership



**PALMER  
GROTH &  
PIETKA INC.**  
REAL ESTATE ANALYSTS

**RICK WALKER, AICP**  
Senior Real Estate Analyst

110 SW YAMHILL STREET  
SUITE 300  
PORTLAND, OREGON 97204

(503) 226-0983 ext. 117  
FAX (503) 273-4273

[Rwalker@pgppdx.com](mailto:Rwalker@pgppdx.com)

**RAMIS  
CREW  
CORRIGAN &  
BACHRACH, LLP**  
ATTORNEYS

1727 N.W. Hoyt Street  
Portland, Oregon 97209  
(503) 222-4402  
Fax (503) 243-2944

Tim Ramis  
Gary Firestone  
John Pinkstaff  
Attorneys at Law

Land Use Law, Municipal Law  
and Government Relations

**Satre Associates, P.C.**  
132 East Broadway, Suite 536  
Eugene, Oregon 97401  
(541) 465-4721 • Fax (541) 465-4722  
[www.satrapc.com](http://www.satrapc.com)

Richard M. Satre, ASLA - President  
Trent Harding, AICP - Planning Manager  
Josh Bruce, AICP - Planner



Planners, Landscape Architects, and Environmental Specialists

VISION • STRATEGIES • SOLUTIONS



A DIVISION OF  
RBF CONSULTING



SERVING THE PUBLIC SECTOR

- DOWNTOWN REVITALIZATION
- DEVELOPMENT CODES
- SPECIFIC PLANS
- DESIGN GUIDELINES
- STREETSCAPE/PLAZA DESIGN
- PUBLIC PARTICIPATION

14725 ALTON PKWY, IRVINE, CA 92618 ■ P.O. BOX 57057, IRVINE, CA 92619  
949.855.5783 ■ FAX 949.837.4122 ■ E-MAIL: UDDSTUDIO@AOL.COM

## Ballot Measure 37, continued from page 1

would entitle the owners of the ranch to demand \$4 to \$6 million in compensation because of zoning that limits the land to farm use instead of residential home sites. But the County's general fund in 2002 was \$3.2 million. Many small counties would face similar situations: the potential for insolvency resulting from a single claim under BM-37. As a result, in lieu of a funding source for payment, BM-37 effectively requires government to allow scattershot repeal of city and county zoning.

This is not an isolated incidence. Two longtime Washington County farmers recently reviewed a map of 22 sections (14,060 acres) of agricultural land between North Plains, Cornelius, and Hillsboro and estimated that 55 to 60 percent of that acreage has been held by the same owners since before 1972, the date Washington County adopted its "Framework Plan." Before the plan, the county allowed 2-acre residential lots on this land. If BM-37 is enacted, owners of the roughly 7,500 acres scattered throughout the 14,060 acre area will be able to demand compensation equal to the difference between the 2004 market value of 2-acre residential lots and farm use. If the county couldn't pay, or chose not to, BM-37 would entitle these owners to subdivide and build houses on the land.

### Neighbors don't matter?

Whether in urban or suburban neighborhoods, or in rural areas, repeal of zoning for particular property owners has the potential to harm a great number of surrounding property owners. BM-37 provides no compensation for neighboring property owners who are harmed by government decisions to approve otherwise unlawful development. BM-37 provides no recourse to adjacent landowners for unanticipated, perhaps irreversible harm. And it sets a double standard for more recent purchasers of nearby lots.

When a property owner seeks to build in violation of zoning, the neighbors would be at a disadvantage. BM-37 declares that decisions under these rules – including decisions to allow development in violation of zoning rather than pay "compensation" – are not land use decisions. This exempts zoning waivers from notice and hearing requirements. The first knowledge a neighbor may have of an apartment building, convenience store, or other development next door could be the arrival of the backhoe and construction crew.

For example, farmers on Exclusive Farm Use (EFU) zoned land, like those in Washington County, rely on compatibility of adjacent uses. Farming involves dust, spraying, smoke, odor, bird cannons, and other disagreeable effects of lawful farm practices. Scattershot repeal of EFU zoning in favor of small-acreage residential development would spawn serious conflicts. Moreover, successful farms wouldn't be able to expand if neighboring EFU land is suddenly priced for development because of BM-37 "grandfather" rights.

### Who is sponsoring Ballot Measure 37?

Sponsors of this petition, "Oregonians in Action," also sponsored Measure 7 (M-7) in November 2000. M-7 was eventually invalidated by the courts, but BM-37 is significantly different than Measure 7.

M-7 didn't reach back through generations to define ownership, as BM-37 does. M-7 was interpreted by the state's Attorney General to require compensation until the agency ran out of money; only then would government be able to repeal regulations. In contrast, BM-37 gives government an immediate, unfettered power to repeal regulations, even if money is available to compensate. Because of this unbridled discretion and greater retroactivity,

BM-37 would generate far more claims than M-7, and would result in the repeal of far more zoning.

Although BM-37 claims to offer governments the "choice" to pay or let play, it's a false choice. Local governments are struggling to pay for schools, public safety, and social services. Our farms, our ranches, our neighborhoods are at stake.

*Bob Stacey, AICP, is the Executive Director of 1000 Friends of Oregon.*

## Baghdad, continued from page 2

people that obtain power will try to accomplish and the value of human life is not as highly valued as in other nations.

This is a slow process at this neighborhood level. However, these folks are learning fast and would enjoy living in country that is less violent than it is now. Many shop owners, restaurateurs, vendors, laborers, and just random folks I chat with when I decide it is time to start walking around town are starting to all tell me the same thing. Basically, since Saddam left they now are allowed to have satellite television and Internet access. This is showing them the rest of the world does not live with the level of poverty and violence that they took for granted existed everywhere; they want this for themselves.

People are still taking shots at us now and again. Mortars hit our compound regularly. Nobody has been seriously injured and we continue to do our missions every day. We are not in anyway safe, but we are certainly healthy and alive. When I get a chance to write again I will discuss infrastructure projects that involve the City Manager functions. Flooded streets with raw sewage at 120 degrees is just too much fun not to want to share.

## Cases, continued from page 13

nine acres and had to pay the logging company. The decision was promptly appealed to the Oregon Supreme Court. As of this printing, the Supreme Court has not decided whether to hear the case and, if it does, a decision is not expected before next year.

For obvious reasons, the decision in this case is particularly troubling to planners. If the decision is upheld - denying a property owner the right to build on any part of the property is a "taking" - what does that mean for property line setbacks or wetland protections? The number of land use and building code regulations that are potentially affected is extensive. Quite apart from the long-term affect the decision could have on the character of our communities, there is the immediate question of how to amend the local code to comply. For an answer to that question, you may want to ask a lawyer.

*Chris Crean is an Assistant County Attorney in Multnomah County. Kim Taylor is a third-year law student at Law at Lewis and Clark Law School.*

W R G  
DESIGN INC.

**EVERYTHING**  
*But the building...*  
WWW.WRGD.COM

Oregon ■ Arizona ■ Nevada

**Westlake**  
consultants, inc

Lee D. Leighton, AICP  
DIRECTOR OF PLANNING

EM Leighton@westlakeconsultants.com  
PH 503.684.0652 1 FX 503.624.0157

PLANNING ENGINEERING SURVEYING



Greg Winterowd & Tim Brooks  
Principals

- Urban Growth Management
- Specific Area Plans
- Natural Resource Plans
- ESA, Wetlands, Goal 5 Compliance
- Development Code Administration

503.827.4422 www.winterbrookplanning.com





## The Mechanics of Ballot Measure 37

by Stephen T. Janik, Ball Janik, LLP

In April 2004, I gave a presentation to the Oregon Association of Realtors describing the challenges that real estate brokers, consultants, and lawyers will have to contend with if Ballot Measure 37 (BM-37) (Initiative 36 in April 2004) is passed. This article is based on that presentation and focuses on the technical aspects of implementing BM-37; for the devil really is in the detail.

### What Regulations Can Give Rise to a Claim?

BM-37 defines "land use regulations" as those including local comprehensive plans and zoning ordinances. However, it exempts regulations based on "public health and safety." The troubling interpretation issue is that the early case law supporting zoning was grounded in the protection of public health and safety. For example, in *Euclid v. Ambler Realty*, the original U.S. Supreme Court case upholding modern zoning, the court recognized zoning regulations as a means to implement the protection of public health and safety. The question then arises as to whether or not land use regulations can be re-characterized as regulations that are exempt from BM-37 because they are an expression of the protection of public health and safety. This interpretation will vary, depending upon the nature of the land use regulation. For example, a land use regulation intended to control traffic may be exempt from BM-37 while a regulation requiring design review of commercial structures may not be exempt.

BM-37 defines "land use regulations" so as to include "local land division ordinances and state statutes regulating the use of land." The problem is that there are state statutes that govern the division of land and sales of land, which are neither "local land division ordinances" nor "state statutes regulating the use of land." Because the division of land is not the use of land, it is unclear whether these state statutes regarding the division and sale of land are covered by BM-37 or not.

### What if the current owner is a legal entity such as a corporation or an LLC?

BM-37 says that it does not alter constitutional rights, which is a curious statement in that no ballot measure adopting a statute could have any impact on the superior constitutional rights. This statement does, however, express the clear intent that existing U.S. and Oregon constitutional rights will not be affected. Among those constitutional rights are the equal protection clause of the U.S. Constitution and the equal privileges clause of the Oregon Constitution.

Under the "equal protection" and the "equal privileges" clauses, legal entities have the right to equal protection and equal privileges as do individuals. Thus, it is highly likely that a legal entity, such as a corporation, that has owned land prior to the enforcement of the existing regulation would be entitled to compensation under BM-37 for the enforcement of that regulation or the government would have to waive the enforcement of the regulation.

### Another Equal Protection Claim

There is an additional equal protection or equal privileges issue that can rise under BM-37. Assume that there are two identical lots located next to one another. One was recently purchased while the other lot has been owned by the same family for generations. If BM-37 passes, then the owner of the family-owned lot could file a claim because the current zoning (which was not in effect when the current owner's grandfather bought the lot) prohibits commercial development. Assume that in response to that property owner's claim for compensation, the local government elects to waive the prohibition on commercial development so as to enable that lot owner to build a commercial structure. In response, the owner of the recently-purchased identical lot files a lawsuit claiming a violation of equal protection and equal privileges. The argument of that property owner is that there is no valid reason to differentiate between two identical lots based simply upon the duration of ownership. What then ensues is litigation over whether or not duration of ownership is a constitutionally-permissible basis for the unequal treatment of parties that are otherwise identically situated. It is unclear how that litigation may be resolved.

### Pursing the Claim

In order to actually pursue a claim for monetary compensation under BM-37, there are a number of difficult steps that would need to be accomplished.

The current property owner would have to prove the requisite ownership by a prior family predecessor or entity. This would have to be based upon court-admissible evidence and documentation.

The claimant would then need to prove what regulations were in effect at the time of his predecessor's commencement of ownership and what regulations are now in effect. At first blush, this may not seem to be a difficult challenge. In reality, it is very difficult to determine exactly when certain land use regulations were in effect. The archiving processes of local governments vary substantially. However, even in larger jurisdictions such as the City of Portland, it is extremely difficult to determine what were the applicable land use regulations some 50 or 60 years ago. There is no ready index that chronologically includes a comprehensive catalogue of all land use regulations, the date of their enactment, the date of their subsequent amendment and the date of their repeal (if any).

The claimant will also have the burden of proving the reduction in the fair market value of the property. It is highly likely that the only way to prove reduction value would be for the property owner to hire an appraiser and even then, there can be considerable dispute about the diminution in value based upon certain types of land use regulations. For example, if a land use regulation limits the height of a commercial building to 3 stories, what is the diminution in value caused by the limitation? To make that determination is necessary to consider the value without the regulation. However, does that consideration mean that you have to consider all conceivable (and potentially uneconomic) building heights that could theoretically be constructed upon the property?

In order to initiate a claim, BM-37 requires that the property owner file an "application" so as to trigger the needed "enforcement" of an existing regulation. It is unclear what the application consists of. For example, if property is currently zoned residential and the property owner wants to assert a claim because the residential zoning prohibits commercial use of the property, then what is the application to be submitted by the owner? There is no application for approval of a prohibited commercial use in a residential zone. The ultimate application may be an application for a building permit. However, in order to apply for a building permit, the property owner would have to prepare definitive construction level plans and specifications for the proposed commercial development and then submit these and request a building permit for the commercial use. This obviously would involve a considerable amount of expense and effort. In the case of a farmer outside the urban growth boundary who now wants to sell his land to a shopping center developer, it would appear that as a precondition to asserting a claim, the farmer would have to prepare plans and specifications for a shopping center and seek a building permit.

In the face of an asserted claim, a local government may elect to pay the reduction in fair market value or waive the regulation. That decision, as well as a determination of the amount of the compensation, would likely be subject to local-level hearings and potential judicial appeals. While BM-37 makes clear that these decisions are not "land use decisions" appealable to the Land Use Board of Appeals, these are likely to be local quasi-judicial decisions that can be appealed to the circuit courts through a writ of review.

Finally, the property owner will bear the burden of proof in any litigation to compel the payment of compensation by the local government. All of the above steps in actually pursuing a claim will involve considerable expense, time, professional consultants, and uncertainty.

## Certainty in Planning

One of the benefits of land use planning is providing a level of predictability for property owners that want to develop their land. BM-37 would diminish that predictability.

Take, for example, a situation where someone wanting to purchase a property instructs her real estate broker that she will buy a 2-acre parcel of property but only if she can be assured that there will be no commercial or manufacturing uses within the 10 parcels that are in close proximity to the 2-acre parcel. In order for the broker to give that assurance to his client, after the passage of BM-37, the broker would have to take the following steps: First, the broker would need to determine the ownership of the nearby 10 parcels. For each of the nearby 10 parcels, the broker would need to determine the ownership history and, implicitly, the genealogy of the present owners. In the case of individuals, this would mean tracing back the current owner's genealogy to the current owner's grandparents and determining whether the

See **MECHANICS**, Page 10

Zoning News is now...

## ZONINGPRACTICE

AMERICAN PLANNING ASSOCIATION

For two decades, planners who tackle tough land use problems have depended on *Zoning News*. Now *Zoning News* has become *Zoning Practice*—more engaging, more comprehensive, and more hands-on, but still committed to the same end: helping planners use zoning to create communities of lasting value.

*Zoning Practice* can help you make zoning part of your community's smart growth solution. For more information about *Zoning Practice* and a free sample issue, visit [www.planning.org/promo](http://www.planning.org/promo).



Before it was a park,  
it was a civil suit.

Before, it was *Land Use Law & Zoning Digest*. Now it's

## Law

Issues and decisions that impact the built and natural environments

Our new title reflects the issues that most challenge today's planners and land-use and environmental attorneys. A more accessible format and style make it easier to find the information you need to keep your community out of court.

But you'll still find the breadth of coverage, expert commentary, and sharp insights into current legal thinking that *Land Use Law & Zoning Digest* readers have depended on since 1949.

Keep up and stay informed—read *Planning & Environmental Law*. Go to [www.planning.org/promo](http://www.planning.org/promo) for more information and a free sample issue.



APPA  
American Planning Association  
Making Smart Communities Happen

## Mechanics, continued from page 5

grandparent owned an interest in the current owner's property. In the case of a legal entity that owns the property, it would be necessary to determine the genealogy of that legal entity, which may involve determining whether mergers or acquisitions had occurred.

Second, if it turns out that any of the current owners had a predecessor who had an ownership interest in the property, then it would be necessary to determine the land use regulations in effect at the time the predecessor acquired the property. Assuming that the broker was resourceful and was able to determine what those regulations were, then the broker would be able to inform the prospective purchaser of the 2-acre parcel of whether or not any of those 10 nearby properties were owned at a time when there was no zoning or there was zoning that allowed commercial or manufacturing use on any of those parcels.

However, that is not the end of the analysis. The next problem is that the prospective purchaser of the 2-acre parcel will not know whether the local government will enforce or waive the current residential-only zoning on the other parcels. That will require that those property owners with potential claims under BM-37 submit an application to the local government in order to get the local government to decide whether they will enforce or waive the current residential-only zoning. If those property owners do nothing, the prospective buyer of the 2-acre parcel will not know what may be developed on those neighboring parcels.

## How Does the Waiver of Enforcement Affect Subsequent Owners?

BM-37 provides that, when faced with a claim, the local government can either enforce the regulation and pay the claim, or can waive the enforcement of the regulation. The decision to waive the enforcement of the regulation affects the current owner, but its effect upon subsequent owners is unclear. Assume that a property owner owns 25 acres and wants to sell that property to a shopping center developer. The owner's grandfather acquired the property when there was no zoning, and the property is now zoned residential.

Under BM-37, the owner would be entitled to compensation for the reduction in the value of the property from a shopping center site to a residential-only site. Alternatively, the local government could choose to waive the enforcement of the current residential-only zoning. If that occurs, then the property owner cannot sell the property to the shopping center developer for development as a shopping center, because the shopping center developer is not protected under BM-37. BM-37 defines the "owner" as the "present owner" at the time of application. Thus, if the shopping center developer acquires the property and files an application, the shopping center developer is not protected under BM-37 because he acquired the property after the existing zoning regulations were in effect.

Another issue arises if the property owner develops the shopping center and then sells it to the developer once it is completed. The question is whether or not the waiver of the land use regulation survives that transfer. Once the owner that received the waiver sells the shopping center, it is no longer the owner using the property. After such a sale, it unclear whether the shopping center becomes a non-conforming use, with all of the limitations inherent in that legal status, or a prohibited use, or a legally permitted use.

It remains unclear as to how these legal issues will be resolved, and it will be unclear until litigation or legislation resolves these and other issues.

Stephen T. Janik, Partner, Ball Janik, LLP

# Looking Forward

*A publication of Oregonians In Action Education Center  
on land use and property rights*

*July-August  
2004*

*Oregonians In Action  
Education Center is a  
non-profit, non-partisan,  
IRS 501 (c)(3) corpora-  
tion wholly funded by  
voluntary contributions.*

*For balanced, flexible  
and fair land-use regula-  
tions, with respect and  
protection for the rights  
of landowners*

*Original material in Looking  
Forward is not copyrighted and  
may be used freely. We would  
appreciate credit to Oregonians In  
Action Education Center, but will  
not object if anyone wishes to use  
it without credit.*

## Son of Measure 7 Ready for Ballot

*By David Hunnicutt,  
Executive Director,  
Oregonians In Action*



Relief is finally on the way for Oregon property owners. After months of gathering signatures, and thousands of hours of volunteer efforts, the signatures have been turned in for Initiative Petition 36, also known as the "Son of Measure 7."

As discussed in previous issues of Looking Forward, Initiative Petition 36, if approved by the voters, protects Oregon property owners from changes in government regulations adopted after they buy their property. Currently, property owners have virtually no protection from new regulations adopted after they buy their land, even if those changes destroy the value of their property.

"We are thrilled with the response we are getting for the measure," said Dave Hunnicutt, OIA Executive Director. "The people gathering signatures for the measure reported that people were eager to sign the petition. We aren't surprised, since Oregon voters already approved Measure 7. Even though the Oregon Supreme Court invalidated Measure 7, a majority of people in this state still believe that it is wrong to steal, whether it's a thief stealing your wallet or the government stealing your property."

*continued on page 3*

## Son of Measure 7 Ready for Ballot

*continued from front page*

Support for the measure is so strong that Hunnicutt and the Chief Petitioners for the measure, Dorothy English of Multnomah County and Gene and Barbara Prete of Deschutes County, were able to turn in 146,495 signatures, an all time record for an initiative to amend the Oregon statutes, and nearly twice the amount needed to qualify the measure for the ballot. The amount of signatures needed to qualify the measure is 75,630.

"We wanted to send a message to those who would regulate us out of our homes and businesses," said Hunnicutt. "If you're going to take property from a family or business, you have to be willing to treat that property owner fairly. I think we got our point across."

"Today, there is a feeling among the citizens in this state that regulations have gone too far, and that people aren't being treated fairly," said Hunnicutt. "Our polling shows that most Oregonians have either been victims of excessive property regulation, or know someone who has been victimized. Once people have been mistreated, or know a friend or relative who has, their reaction is always the same - we need help, and we need it now."

Although the signatures have been turned in, the Secretary of State has yet to verify the signatures and certify the measure for the ballot. That process has commenced, and must be finished by August 1. "With all of the other campaigns turning in their signatures at about the same time we did, the state Elections Division is working hard to verify all of the



*Gene Prete, Barbara Prete, Dorothy English and Dave Hunnicutt at the State Capitol.*

different initiatives for the ballot," continued Hunnicutt. "But because we were able to turn in almost twice the number of signatures we needed, I think we'll make it."

Assuming the measure qualifies for the November ballot, the attention now shifts to the media campaign to pass the measure. "In 2000, we were outspent by a 10 to 1 ratio, yet still managed to pass Measure 7. We expect to be outspent again this year, but it doesn't seem to matter how much money is spent by the opponents to confuse the voters, people are able to see through the smoke and mirrors and understand that as a fundamental principle, it is simply wrong to take property without compensation." ■

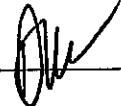
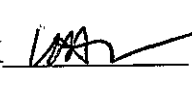
**"But property rights are not the rights of property; they are the rights of humans with regard to property. They are a particular kind of human right."**

**-- David Friedman, Professor of Law, Santa Clara University**

AGENDA ITEM # 3  
FOR AGENDA OF 9/21/04

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Parks System Development Charge Update on Revision of Methodology and Rates

PREPARED Dan Plaza, 2590 DEPT HEAD OK  CITY MGR OK 

ISSUE BEFORE THE COUNCIL

Council will hear a presentation on the process to update the current Park SDC Methodology and Rates

STAFF RECOMMENDATION

Authorize the public release of the "draft" SDC methodology which starts the process for a public hearing in November.

INFORMATION SUMMARY

The City of Tigard's Parks SDC methodology must be updated in order to comply with new requirements adopted into law during the 2003 legislative session. Changes to the Oregon SDC Act [ORS 223.297 – 223.314] now require that improvement fee SDC methodologies consider the projected cost of specific capital improvements identified in an adopted plan and list of capital improvements needed to increase system capacity. The methodology used for the City's current Parks SDC was developed using standards for levels of service, rather than a specific list planned of capital improvements.

The City adopted the current Park System Master Plan (Master Plan) in March 1999 [Resolution 99-16], but specifically excluded adoption of the "Capital Improvement Plan" included in that Master Plan pending consideration "at a later time in conjunction with potential revisions to the City park system development charge fee structure." Projects identified in the Master Plan have been reviewed, updated, and combined with additional projects included in the "Bull Mountain White Paper on Parks and Open Spaces" to develop a Park System Capacity Improvements Plan. An updated Parks SDC methodology has been drafted based on the Park System Capacity Improvements Plan.

ORS 223.304(7)(a) requires that written notice must be mailed to persons who have requested notification at least 90 days prior to the first public hearing to establish or modify a system development charge, and the methodology must be available for review at least 60 days prior to the first public hearing. A public hearing has been scheduled for November 23, 2004, and notice has been sent to persons requesting notification (e.g., the Home Builders Association of Metropolitan Portland) informing them of this public hearing. A draft methodology must be available for public review by September 24, 2004.

Following City Council review at the September 21, 2004 work session, the draft methodology will be made available for public review and comment until the scheduled public hearing on November 23, 2004.

---

OTHER ALTERNATIVES CONSIDERED

---

n/a

---

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

---

“Tigard Beyond Tomorrow” Council Visioning Process – Urban and Public Services – Goal 1, Strategy 1- Acquire and Develop Parkland

---

ATTACHMENT LIST

---

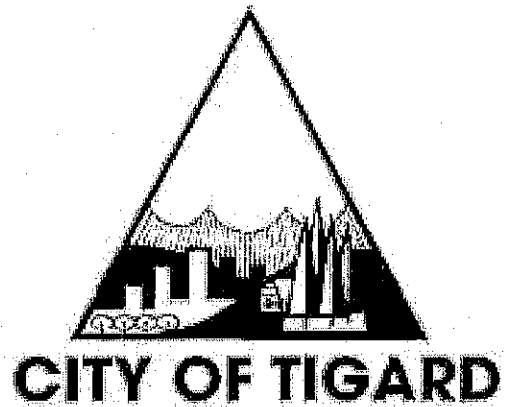
Attachment 1 – Parks and Recreation System Development Charges Methodology Update  
(Revised Draft 9/3/04)

---

FISCAL NOTES

---

n/a



**PARKS AND RECREATION  
SYSTEM DEVELOPMENT CHARGES  
METHODOLOGY UPDATE**

REVISED DRAFT as of  
September 4, 2004

PO Box 91491 • Portland, OR 97291 • 503-690-8981 • [DGaner@GanerAssociates.com](mailto:DGaner@GanerAssociates.com)

**Don  
Ganer &  
Associates, Inc.**



## CONTENTS

	<u>page</u>
1.0 INTRODUCTION	1
2.0 AUTHORITY AND BACKGROUND INFORMATION	2
A. Legislative Authority	2
B. "Improvement fee" and "Reimbursement fee" SDCs	2
C. Requirements and Options for Credits, Exemptions, and Discounts	3
D. Alternative Methodology Approaches	4
3.0 PARKS AND RECREATION SDC METHODOLOGY	5
A. Population and Employment Growth	6
B. Persons Per Dwelling Unit	6
C. Benefit of Facilities	7
D. Facility Needs	10
E. New Facility Costs	11
F. Compliance/Administrative Costs	12
4.0 RESIDENTIAL PARKS AND RECREATION SDC RATES	13
A. Formula 4a: Net Residential SDC-Eligible Costs	13
A. Formula 4b: Residential Improvements Cost Per Capita	14
C. Formula 4c: Residential Improvements Cost Per Dwelling Unit	14
D. Formula 4d: Residential SDC Tax Credit Per Dwelling Unit	15
E. Formula 4e: Residential SDC Per Dwelling Unit	16
5.0 NON-RESIDENTIAL SDC RATES	17
A. Formula 5a: Net Non-Residential SDC-Eligible Costs	17
B. Formula 5b: Non-Residential Improvements Cost Per Employee	18
C. Formula 5c: Non-Residential Tax Credit Per Employee	18
D. Formula 5d: Non-Residential SDC Per Employee	19
6.0 ANNUAL RATE ADJUSTMENTS	20
APPENDIX A: SDC Parks Capacity Improvements Program	
APPENDIX B: Parks SDC Rates in Washington County	
APPENDIX C: Parks SDC Update Calendar	

## TABLES

	<u>page</u>
TABLE 3.1: Projected Population and Employment Increases From New Development (2003 - 2008)	6
TABLE 3.2: Average Persons Per Dwelling Unit	7
TABLE 3.3: Estimates of Average Daily Availability of Parks and Recreation Facilities	8
TABLE 3.4: Total Annual Availability of Parks and Recreation Facilities	9
TABLE 3.5: Total Residence and Non-Resident Employment Related Availability of Parks and Recreation Facilities	9
TABLE 3.6: Non Resident Employee-To-Resident Parks Demand Ratio	10
TABLE 3.7: Facility Needs for Population and Employment Growth and Deficiency Repair	10
TABLE 3.8: Residential and Non-Residential Growth-Required New Facility Costs	11
TABLE 3.9: Compliance/Administrative Cost Allocations	12
TABLE 4.1: Net Residential SDC-Eligible Costs	13
TABLE 4.2: Residential Improvements Cost Per Capita	14
TABLE 4.3: Residential Improvements Cost Per Dwelling Unit	15
TABLE 4.4: Tax Credit Per Dwelling Unit	16
TABLE 4.5: Residential SDC Per Dwelling Unit	16
TABLE 5.1: Net Non-Residential SDC-Eligible Costs	17
TABLE 5.2: Non-Residential Improvements Cost Per Employee	18
TABLE 5.3: Tax Credit Per Employee	19
TABLE 5.4: Non-Residential SDC Per Employee	19
TABLE 5.5: Square Feet Per Employee	20

# **CITY OF TIGARD**

## **Parks and Recreation System Development Charges Methodology Update**

### **1.0 INTRODUCTION**

System Development Charges (SDCs) are one-time fees charged to new development to help pay a portion of the costs associated with building capital facilities to meet needs created by growth. SDCs are authorized for five types of capital facilities including transportation, water, sewer, stormwater, and parks and recreation. The City of Tigard adopted the current parks and recreation SDCs methodology in 1996, and last updated the parks SDCs in March 2001.

In July 2004, the City engaged Don Ganer & Associates, Inc. to update the City's Parks and Recreation SDC methodology to reflect an updated Parks Capacity Improvements Program including selected needs identified in the Tigard Park System Master Plan (July 1999) and in the Bull Mountain Annexation White Paper on Parks and Open Spaces (May 28, 2004).

Section 2.0 of this report presents authority and background information including (1) legislative authority for SDCs; (2) an explanation of "improvement fee" and "reimbursement fee" SDCs; (3) requirements and options for credits, exemptions and discounts; and (4) alternative methodology approaches. Section 3.0 presents the methodology used to update the Parks and Recreation SDCs, section 4.0 presents the calculation of Residential Parks and Recreation SDC Rates, section 5.0 presents the calculation of Non-Residential Parks and Recreation SDC Rates, and section 6.0 discusses annual adjustment of the SDC rates. The Parks and Recreation SDC Parks Capacity Improvements Program (PCIP) listing of projects that may be funded with SDC revenues is included as Appendix A to this report.

## 2.0 AUTHORITY AND BACKGROUND INFORMATION

### *A. Legislative Authority*

The source of authority for the adoption of SDCs is found both in state statute and the City's own plenary authority to adopt this type of fee. While SDCs have been in use in Oregon since the mid-1970's, State legislation regarding SDCs was not adopted until 1989, when the Oregon Systems Development Act (ORS 223.297 - 223.314) was passed. The purpose of this Act was to "...provide a uniform framework for the imposition of system development charges..". Additions and modifications to the Oregon Systems Development Act have been made in 1993, 1999, 2001, and 2003. Together, these pieces of legislation require local governments who enact SDCs to:

- adopt SDCs by ordinance or resolution;
- develop a methodology outlining how the SDCs were developed;
- adopt a capital improvements program to designate capital improvements that can be funded with "improvement fee" SDC revenues;
- provide credit against the amount of the SDC for the construction of certain "qualified public improvements";
- separately account for and report receipt and expenditure of SDC revenues, and develop procedures for challenging expenditures; and
- use SDC revenues only for capital expenditures (operations and maintenance uses are prohibited).

### *B. "Improvement fee" and "Reimbursement fee" SDCs*

The Oregon Systems Development Act provides for the imposition of two types of SDCs: (1) "improvement fee" SDCs, and (2) "reimbursement fee" SDCs. "Improvement fee" SDCs may be charged for new capital improvements that will increase capacity. Revenues from "improvement fee" SDCs may be spent only on capacity-increasing capital improvements identified in the required capital improvements program that lists each project, and the expected timing, cost, and growth-required percentage of each project. "Reimbursement fee" SDCs may be charged for the costs of existing capital facilities if "excess capacity" is available to accommodate growth. Revenues from "reimbursement fees" may be used on *any* capital improvement project, including major repairs, upgrades, or renovations. Capital improvements funded with "reimbursement fee" SDCs do not need to increase capacity, but they must be included in the list of projects to be funded with SDC revenues.

### *C. Requirements and Options for Credits, Exemptions, and Discounts*

#### (1) Credits

A credit is a reduction in the amount of the SDC for a specific development. The Oregon SDC Act requires that credit be allowed for the construction of a "qualified public improvement" which (1) is required as a condition of development approval, (2) is identified in the City's capital improvements program, and (3) either is not located on or contiguous to property that is the subject of development approval, or is located on or contiguous to such property and is required to be built larger or with greater capacity than is necessary for the particular development project. The credit for a qualified public improvement may only be applied against an SDC for the same type of improvement (e.g., a parks and recreation improvement can only be used for a credit for a parks and recreation SDC), and may be granted only for the cost of that portion of an improvement which exceeds the minimum standard facility size or capacity needed to serve the particular project. For multi-phase projects, any excess credit may be applied against that accrue in subsequent phases of the original development project.

In addition to these required credits, the City may, if it so chooses, provide a greater credit, establish a system providing for the transferability of credits, provide a credit for a capital improvement not identified in the City's capital improvements program, or provide a share of the cost of an improvement by other means.

#### (2) Exemptions

The City may "exempt" certain types of development, such as "non-residential development" from the requirement to pay parks SDCs. Exemptions reduce SDC revenues and, therefore, increase the amounts that must come from other sources, such as bonds and property taxes.

### (3) Discounts

The City may "discount" the amount of the SDC by reducing the portion of growth-required improvements to be funded with SDCs. A discount in the SDC may also be applied on a pro-rata basis to any identified deficiencies to be funded from non-SDC sources. For example, the City may decide to charge new development an SDC rate sufficient to pay for some types of facilities but not for others (i.e., neighborhood parks but not trails, etc.), or to pay only a percentage (i.e., 80%, 50%, etc.) of identified growth-required costs. The portion of growth-required costs to be funded with SDCs must be identified in the City's capital improvements program.

Because discounts reduce SDC revenues, they increase the amounts that must come from other sources, such as bonds or general fund contributions, in order to achieve or maintain adopted levels of service.

### ***D. Alternative Methodology Approaches***

There are three basic approaches used to develop improvement fee SDCs; "standards-driven", "improvements-driven", and "combination/hybrid".

#### (1) Standards-Driven Approach

The "standards-driven" approach is based on the application of Level of Service (LOS) Standards for facilities such as neighborhood parks, community parks, etc. Facility needs are determined by applying the LOS Standards to projected future population and employment, as applicable. SDC-eligible amounts are calculated based on the costs of facilities needed to serve growth. This approach works best where current and planned levels of service have been identified but no specific list of projects is available.

## (2) Improvements-Driven Approach

The “improvements-driven” approach is based on a specific list of planned capacity-increasing capital improvements. The portion of each project that is attributable to growth is determined, and the SDC-eligible costs are calculated by dividing the total costs of growth-required projects by the projected increase in population and employment, as applicable. This approach works best where a detailed master plan or project list is available and the benefits of projects can be readily apportioned between growth and current users.

## (3) Combination/Hybrid Approach

The combination/hybrid-approach includes elements of both the “improvements-driven” and “standards-driven” approaches. Level of Service standards may be used to create a list of planned capacity-increasing projects, and the growth-required portions of projects can then be used as the basis for determining SDC-eligible costs. This approach works best where Levels of Service have been identified and the benefits of individual projects are not easily apportioned between growth and current users.

## 3.0 PARKS AND RECREATION SDC METHODOLOGY

The Improvements-Driven approach has been used to develop the updated Parks and Recreation SDC methodology. The Tigard Park System Master Plan (July 1999) and the Bull Mountain Annexation White Paper on Parks and Open Spaces (May 28, 2004) identify projects designed to repair deficiencies and address growth needs within the City’s urban services planning area. The SDC Parks Capacity Improvements Program (Appendix A) includes these projects and identifies the growth-required portion (if any), the estimated timing, and the estimated cost of each project.

Parks and recreation facilities benefit City residents, businesses, non-resident employees, and visitors. The methodology used to update the City's Parks and Recreation SDCs establishes the required connection between the demands of growth and the SDC by identifying specific types of parks and recreation facilities and analyzing the proportionate need of each type of facility for use by residents and employees. The SDCs to be paid by a development meet statutory requirements because they are based on the nature of the development and the extent of the impact of the development on the types of parks and recreation facilities for which they are charged. The Parks and Recreation SDCs are based on population and employment, and the SDC rates are calculated based on the specific impact a development is expected to have on the City's population and employment. For facilities that are not generally used by employees (e.g., neighborhood parks), only a residential parks and recreation SDC may be charged. For facilities that benefit both residents and employees (i.e., community parks, etc.), parks and recreation SDCs may be charged for both residential and non-residential development.

#### ***A. Population and Employment Growth***

The Parks and Recreation SDCs are based on costs per "capita" (person). Estimates of current and projected population and employment within the Tigard urban services planning area were calculated using data from Metro and the Population Research Center at Portland State University.

**TABLE 3.1**

**PROJECTED POPULATION AND EMPLOYMENT  
INCREASES FROM NEW DEVELOPMENT (2003 - 2008)**

	<u>2008 (Projected)</u>		<u>Estimated 2003</u>		<u>Projected Increase</u>
Population:	58,367	-	53,099	=	5,268
Employment:	41,575	-	38,441	=	3,134

#### ***B. Persons Per Dwelling Unit***

The Residential Parks and Recreation SDC rates are based on costs per capita and are calculated based on the number of persons per dwelling unit. Dwelling units typically house different numbers of persons depending on the type of unit (i.e., single family, multi-family, etc.). To determine the appropriate number of persons per dwelling unit, official U.S. Census data gathered in 2000 was analyzed, and the resulting calculations are displayed in Table 3.2, page 7.



**TABLE 3.2**

**AVERAGE PERSONS PER DWELLING UNIT**

<u>Type of Unit</u>	<u>2000 Census Avg. Persons Per Dwelling Unit</u>
Single-Family	2.67
Multi-Family	1.86
Manufactured Housing	1.81

***C. Benefit of Facilities***

Facility needs must consider the proportionate benefit each type of facility has for residents and employees. A resident is any person whose place of residence is within the Tigard urban services area. An employee is any person who receives remuneration for services, and whose services are directed and controlled either by the employee (self-employed) or by another person or organization. The parks and recreation facilities discussed in this report are defined in the Tigard Park System Master Plan (July 1999). For purposes of this report, neighborhood parks are considered to be used primarily by residents, rather than by employees and other non-residents, and; therefore, the identified needs for these types of facilities are based only on population and do not consider employment. For all other facilities including community parks, linear parks, etc., both population and employment were considered when identifying facility needs.

While parks and recreation facilities benefit both residents and employees, the amount of time these facilities are available for use by employees is not the same as for residents; an employee does not create demands for facilities equal to those created by a resident. In order to equitably apportion the need for facilities between employees and residents, an employee-to-resident demand ratio was developed based on the potential time these facilities are available for use.

First, estimates for the average number of hours per day these facilities are available for use were identified. Children's ages, adult employment status, work location (inside or outside the City), and seasonal variances were taken into account and are displayed in Table 3.3, page 8.

**TABLE 3.3**  
**ESTIMATES OF AVERAGE DAILY**  
**AVAILABILITY OF PARKS AND RECREATION FACILITIES**

	<u>Non-Employed Adult (18+)</u>	<u>5-17 Kids</u>	<u>Live In/ Work In</u>	<u>Live In/ Work Out</u>	<u>Live Out/ Work In</u>	<u>Total</u>
<b>Summer (June-Sept)</b>						
<u>Weekday</u>						
Before Work			1		1	2
Meals/Breaks			1		1	2
After Work			2		2	4
Other Leisure	12	12	2	2		28
Sub-Total	12	12	6	2	4	36
<u>Weekend</u>						
Leisure	12	12	12	12	0	48
Sub-Total	12	12	12	12	0	48
Summer Hrs/Day	12	12	7.71	4.86	2.86	39.43
<b>Spring/Fall (April-May, Oct-Nov)</b>						
<u>Weekday</u>						
Before Work			0.5		0.5	1
Meals/Breaks			1		1	2
After Work			1		1	2
Other Leisure	10	4	2	2		18
Sub-Total	10	4	4.5	2	2.5	23
<u>Weekend</u>						
Leisure	10	10	10	10	0	40
Sub-Total	10	10	10	10	0	40
Spring/Fall Hours/Day	10	5.71	6.07	4.29	1.79	27.86
<b>Winter (December-March)</b>						
<u>Weekday</u>						
Before Work			0.5		0.5	1
Meals/Breaks			1		1	2
After Work			0.5		0.5	1
Other Leisure	8	2	1	1		12
Sub-Total	8	2	3	1	2	16
<u>Weekend</u>						
Leisure	8	8	8	8	0	32
Sub-Total	8	8	8	8	0	32
Winter Hours/Day	8	3.71	4.43	3	1.43	20.57
Annual Weighted Avg. Hours	10	7.14	6.07	4.05	2.02	29.29

The Annual Weighted Average Hours of availability was calculated for each category of residents and employees using the following formula:

$$(\text{Summer Hours/Day} \times 3 [\text{months}] + \text{Spring/Fall Hours/Day} \times 6 + \text{Winter Hours/Day} \times 3) / 12$$

Next, the Annual Weighted Average Hours (from Table 3.3, page 8) were applied to population and employment data (2000 Census) to determine the Total Annual Weighted Average Hours for each category of Resident and Employee. The results are displayed in Table 3.4.

**TABLE 3.4**

**TOTAL ANNUAL AVAILABILITY  
OF PARKS AND RECREATION FACILITIES**

	<u>Non-Employed Adult (18+ )</u>	<u>5-17 Kids</u>	<u>Live In/ Work In</u>	<u>Live In/ Work Out</u>	<u>Live Out/ Work In</u>	<u>Total</u>
Population & Employment Data (2000 Census)	9,140	7,270	5,798	15,821	27,382	65,411
Annual Weighted Avg. Hours	<u>10</u>	<u>7.14</u>	<u>6.07</u>	<u>4.05</u>	<u>2.02</u>	<u>29.29</u>
Tot. Annual Weighted Avg. Hrs.	91,400	51,929	35,202	64,037	55,416	297,984

Next, the available hours (from Table 3.4) were allocated between resident hours and non-resident employment hours, as displayed in Table 3.5.

**TABLE 3.5**

**TOTAL RESIDENCE AND NON-RESIDENT EMPLOYMENT RELATED  
AVAILABILITY OF PARKS AND RECREATION FACILITIES**

	<u>Hours</u>	<u>% of Total</u>
<u>Resident</u>		
Non-Employed Adult	91,400	
5-17 Kids	51,929	
Live In/Work In	35,202	
Live In/Work Out	<u>64,037</u>	
sub-total	242,568	81.40%
<u>Non-Resident</u>		
Non-Resident Employee	55,416	18.60%

Finally, the Non-Resident Employee to Resident Parks Demand Ratio was calculated by dividing the total of non-resident employment hours by the total for resident hours (from Table 3.5), with results summarized in Table 3.6, page 10.

**TABLE 3.6**

**NON RESIDENT EMPLOYEE-TO-RESIDENT PARKS DEMAND RATIO**

Weighted Average Hours/Non-Resident Employment		Weighted Average Weighted Average <u>Hours/Residents</u>		Non-Resident Employment % <u>to Resident Demand</u>
55,416	÷	242,568	=	22.8%

***D. Facility Needs***

The Tigard Park System Master Plan (July 1999) included a 10-year Capital Improvement Plan (Table 11) that was not adopted by the City, pending updating the SDC Methodology. The Master Plan also included a recommended Level of Service (LOS) standard of 11.0 acres per 1,000 persons that was not adopted, but instead is “viewed by the Council as a visionary goal or ideal standard”. The facility needs identified in the “Bull Mountain Annexation White Paper on Parks and Open Spaces” have been combined with major needs included in the Master Plan to develop the Parks Capacity Improvements Program included as Appendix A to this report.

Table 3.7, below, presents a summary of facility needs through the year 2008, both for growth and to repair deficiencies for current residents and employees. The “Current Need” is the proportionate share needed to provide facilities to current residents and employees (if applicable) at the levels of service planned for the year 2008. The “Growth Need” is the proportionate share needed to provide facilities to future residents and employees (if applicable) at the planned levels of service for 2008.

**TABLE 3.7**

**FACILITY NEEDS FOR POPULATION AND  
EMPLOYMENT GROWTH AND DEFICIENCY REPAIR**

<u>Facility Type</u>	<u>Current Inventory</u>	<u>Current Need</u>	<u>Surplus or (Deficiency)</u>	<u>2008 Need</u>	<u>Growth Need</u>
Neighborhood Parks (acres)	19.06	36.21	(17.15)	39.80	3.59
Community Parks (acres)	102.87	112.03	(9.16)	122.87	10.84
Greenways (acres)	173.00	201.05	(28.06)	220.50	19.44
Linear Parks (acres)	52.22	50.14	2.08	55.00	2.78
Trails (miles)	8.00	11.95	(3.95)	13.11	1.16

There are deficiencies in the number of acres of Neighborhood Parks, Community Parks, and Greenways; and in the miles of Trails available to serve current residents and employees. Improvement fee SDC revenues must be used only for growth needs, and may not be used to remedy deficiencies. Alternative non-SDC revenues must be used to repair deficiencies.

### *E. New Facility Costs*

The SDC Parks Capacity Improvements Program (PCIP), included as Appendix A, identifies new facilities needed to serve parks and recreation needs of the City through the year 2008. Table 3.8, below, shows a breakout of residential and non-residential share of costs for these new facilities. Because employees need fewer facilities than those required for a resident, the residential share of growth costs is 88.1% of the total for those facilities which benefit both residential and non-residential development (i.e., community parks, linear parks, etc.), and 100% for those facilities which benefit residential development only (e.g., neighborhood parks).

**TABLE 3.8**

**RESIDENTIAL AND NON-RESIDENTIAL  
GROWTH-REQUIRED NEW FACILITY COSTS**

<u>Facility</u>	<u>Cost Per Unit</u>	<u>Total New Facility Costs</u>	<u>New Facility Growth Costs</u>	<u>Residential Growth Costs</u>	<u>Non-Residential Growth Costs</u>
Neighborhood Parks (acres)*	\$420,000	\$8,710,800	\$1,508,220	\$1,508,220	\$ 0
Community Parks (acres)**	450,000	9,000,000	4,878,000	4,297,518	580,482
Greenways (acres)***	140,000	6,650,000	2,721,600	2,397,730	323,870
Linear Parks (acres)#	240,000	667,200	603,200	531,419	71,781
Trails (miles)##	520,000	<u>3,193,750</u>	<u>725,000</u>	<u>587,803</u>	<u>79,397</u>
Totals		\$27,685,200	\$10,378,220	\$9,322,690	\$1,055,530
Percentage of Growth Costs				89.8%	10.2%

\* Neighborhood Parks are considered to benefit residential population only; cost per unit is based on land at \$250,000 per acre and development at \$170,000 per acre. Land cost estimate is based on a review of recent similar acquisitions by the cities of Sherwood, Tigard, Tualatin and Hillsboro, and by the Tualatin Hills Park & Recreation District.

\*\* Community Parks cost is based on \$250,000 per acre for acquisition and \$200,000 for development. Land cost estimate is based on a review of recent similar acquisitions by the cities of Sherwood, Tigard, Tualatin and Hillsboro, and by the Tualatin Hills Park & Recreation District.

\*\*\* Greenways cost of \$140,000 per acres is based on a review of recent similar acquisitions by the cities of Sherwood, Tigard, Tualatin and Hillsboro, and by the Tualatin Hills Park & Recreation District.

# Linear Parks cost is based on \$140,000 per acres for acquisition and \$100,000 per acre for development.

## Trails costs include land acquisition at approximately \$70,000 per mile (1/2 acre per mile), and development at \$450,000 per mile. Land cost estimate is based on a review of recent similar acquisitions by the cities of Sherwood, Tigard, Tualatin and Hillsboro, and by the Tualatin Hills Park & Recreation District.

### ***F. Compliance/Administrative Costs***

The City incurs costs in the development and administration of the SDCs and may recoup a portion of those costs in accordance with ORS 223.307(5). Compliance/administrative costs during the 5-year collection period have been estimated as follows:

Master Plan Update (\$100,000 for consulting and staff services)	\$100,000
Annual PCIP Management, Accounting and Reporting Costs (approximately \$10,000 per year for consulting, legal, audit, financial reporting and staff services)	\$50,000
SDC Methodology Reviews and Update	<u>\$15,000</u>
Total Estimated 5-year Compliance/Administrative Costs	\$165,000

These costs are allocated between population and employment based on the growth share percentages included in Table 3.8, page 11, and are shown in Table 3.9, below.

**TABLE 3.9**

### **COMPLIANCE/ADMINISTRATIVE COST ALLOCATIONS**

<u>Type of Development</u>	<u>Share of Growth Costs</u>	<u>Estimated 5-year Compliance/ Administrative Costs</u>	<u>Compliance/ Administrative Cost Allocation</u>
Population (Residential)	89.8%	\$165,000	\$148,218
Employment (Non-residential)	10.2%	\$165,000	\$16,782

#### 4.0 RESIDENTIAL PARKS AND RECREATION SDC RATES

The City's Residential Parks and Recreation SDC rates are calculated using a series of sequential formulas which, when completed, yield the total SDC rates for each new dwelling unit in the City. The formulas identify:

- a) the net residential SDC-eligible costs (Formula 4a, below)
- a) the residential improvements cost per capita (Formula 4b, page 14),
- a) the residential improvements cost per dwelling unit (Formula 4c, page 14),
- a) the residential SDC tax credit per dwelling unit (Formula 4d, page 15), and
- a) the residential SDC per dwelling unit (Formula 4e, page 16).

The Residential SDC rate is an "improvement fee" only, and does not include a "reimbursement fee" component.

##### ***A. Formula 4a: Net Residential SDC Eligible Costs***

The net residential SDC-eligible costs are calculated by adding the residential portion of growth-required improvements cost (identified in Table 3.8, page 11) and Compliance/Administrative Costs (Table 3.9, page 12).

$$\begin{array}{rcccl} & \text{Residential} & & \text{Compliance/} & \text{Net Residential} \\ 4a. & \text{New Facility} & + & \text{Administrative} & = \text{SDC - Eligible} \\ & \text{Costs} & & \text{Costs} & \text{Costs} \end{array}$$

Table 4.1 presents the calculation of the net total SDC-eligible costs.

**TABLE 4.1**

##### **NET RESIDENTIAL SDC-ELIGIBLE COSTS**

	Residential SDC <u>Eligible Costs</u>
Growth-Required Facilities	\$9,322,690
PLUS: Compliance/Administrative Costs	\$148,218
EQUALS: Total Growth-Required Costs	\$9,470,908

***B. Formula 4b: Residential Improvements Cost Per Capita***

The residential improvements cost per capita is calculated by dividing the net residential SDC-eligible portion of growth-required improvements cost (identified in Table 4.1, page 13) by the increase in the City's population expected to be created by new development through 2008 (from Table 3.1, page 6).

$$\begin{array}{rcccl} & \text{Net Residential} & & & \text{Residential} \\ & \text{SDC-Eligible} & \div & \text{Population} & = \text{Improvements Cost} \\ 4b. & \text{Costs} & & \text{Increase} & \text{Per Capita} \end{array}$$

Table 4.2 presents the calculation of the facilities cost per capita.

**TABLE 4.2**

**RESIDENTIAL IMPROVEMENTS COST PER CAPITA**

	<u>Residential SDC Eligible Costs</u>		<u>Population Increase</u>		<u>Residential Improvements Cost Per Capita</u>
Net Residential SDC-Eligible Costs	\$9,470,908	÷	5,268	=	\$1,798

***C. Formula 4c: Residential Improvements Cost Per Dwelling Unit***

The residential improvements cost per dwelling unit is calculated by multiplying the average number of persons per dwelling unit (from Table 3.2, page 7) by the residential improvements cost per capita (from Table 4.2, above).

$$\begin{array}{rcccl} & & & \text{Residential} & \text{Residential} \\ & \text{Persons Per} & \times & \text{Improvements Cost} & = \text{Improvements Cost Per} \\ 4c. & \text{Dwelling Unit} & & \text{Per Capita} & \text{Dwelling Unit} \end{array}$$

The results of these calculations are displayed in Table 4.3, page 15.



**TABLE 4.3**

**RESIDENTIAL IMPROVEMENTS COST PER DWELLING UNIT**

<u>Type of Dwelling Unit</u>	<u>Average Persons Per Dwelling Unit</u>	<u>X</u>	<u>Total Residential Cost Per Capita</u>	<u>=</u>	<u>Residential Improvements Cost Per Dwelling Unit</u>
Single-Family:	2.67		\$1,798		\$4,800
Multi-Family:	1.86		\$1,798		\$3,344
Manufactured Housing:	1.81		\$1,798		\$3,254

***D. Formula 4d: Residential SDC Tax Credit Per Dwelling Unit***

Debt instruments will likely be used as a future source for funding capacity improvements. A portion of funds used to repay these debts may come from property taxes paid by growth. A tax credit has been calculated to account for potential payments in order to avoid charging growth twice; once through the SDC, and a second time through property taxes. A credit has been calculated for each type of dwelling unit using the following assumptions:

- \$17.5M in 20 year G.O. bonds at 5.5 %, \$3.5M to be issued in 2007,
- 6.0% average annual increase in total City property valuation for taxes,
- 3.0% annual increase in assessed property valuations,
- 3.0% annual inflation (decrease in value of money),
- Average 2003 property valuations for new construction at \$250,000 for single family, \$60,000 for multi-family, and \$85,000 for manufactured housing units (\$75,000 for unit, \$10,000 for lot)

$$\begin{array}{rcl} & \text{Present Value} & \text{SDC Tax} \\ 4d. & \text{of Future Property} & = \text{Credit Per} \\ & \text{Tax Payments} & \text{Dwelling Unit} \end{array}$$

The amounts of these credits are shown in Table 4.4, page 16.

**TABLE 4.4**

**TAX CREDIT PER DWELLING UNIT**

<u>Type of Dwelling Unit</u>	<u>Tax Credit Per Dwelling Unit</u>
Single-Family:	\$907
Multi-Family:	\$218
Manufactured Housing:	\$171

***E. Formula 4e: Residential SDC Per Dwelling Unit***

The residential SDC rate per dwelling unit is calculated by subtracting the tax credit per dwelling unit (Table 4.4, above) from the residential improvements cost per dwelling unit (Table 4.3, page 15).

$$\begin{array}{rcccl} & \text{Residential} & & \text{SDC Tax} & \\ & \text{Improvements Cost} & - & \text{Credit Per} & = \\ 4e. & \text{Per Dwelling Unit} & & \text{Dwelling Unit} & \\ & & & & \text{Residential} \\ & & & & \text{SDC Per} \\ & & & & \text{Dwelling Unit} \end{array}$$

The results of these calculations are shown in Table 4.5, below.

**TABLE 4.5**

**RESIDENTIAL SDC PER DWELLING UNIT**

<u>Type of Dwelling Unit</u>	<u>Residential Improvements Cost Per Dwelling Unit</u>	<u>SDC Tax Credit Per Dwelling Unit</u>	<u>Residential SDC Per Dwelling Unit</u>
Single-Family:	\$4,800	\$907	\$3,893
Multi-Family:	\$3,344	\$218	\$3,126
Manufactured Housing:	\$3,254	\$171	\$3,083

## 5.0 NON-RESIDENTIAL SDC RATES

The City's Non-Residential Parks and Recreation SDC rates are calculated using a series of sequential formulas which, when completed, yield the total SDC rates for each new employee added by new development in the City. The formulas identify:

- a) the Non-Residential Improvements Cost Per Employee (Formula 5a, below),
- a) the Tax Credit Per Employee (Formula 5b, page 18); and
- a) the Non-Residential SDC Per Employee (Formula 5c, page 18).

The Non-Residential SDC rates is an "improvement fee" only and does not include a "reimbursement fee" component. The SDC rates are based on costs required for and benefits received by new development only, and do not assume that costs are necessarily incurred for capital improvements when an employer hires an additional employee.

### *A. Formula 5a: Net Non-Residential SDC Eligible Costs*

The net non-residential SDC-eligible costs are calculated by adding the non-residential portion of growth-required improvements cost (identified in Table 3.8, page 11) and Compliance/Administrative Costs (Table 3.9, page 12).

$$\begin{array}{rcccl} & \text{Non-Residential} & & \text{Compliance/} & & \text{Net Non-Residential} \\ 5a. & \text{New Facility} & + & \text{Administrative} & = & \text{SDC - Eligible} \\ & \text{Costs} & & \text{Costs} & & \text{Costs} \end{array}$$

Table 5.1 presents the calculation of the net total SDC-eligible costs.

**TABLE 5.1**

### **NET RESIDENTIAL SDC-ELIGIBLE COSTS**

	Non-Residential SDC <u>Eligible Costs</u>
Growth-Required Facilities	\$1,055,530
PLUS: Compliance/Administrative Costs	<u>\$16,782</u>
EQUALS: Total Growth-Required Costs	\$1,072,312

**B. Formula 5b: Non-Residential Improvements Cost Per Employee**

The Non-Residential Improvements Cost Per Employee is calculated by dividing the net non-residential SDC-eligible costs (from Table 5.1, page 17) by the increase in the City's employment expected to be created by new development through 2008 (from Table 3.1, page 6).

$$\begin{array}{rcccl} \text{5b.} & \text{Net Non-Residential} & & \text{Employment} & & \text{Non-Residential} \\ & \text{SDC-Eligible} & \div & \text{Increase From} & = & \text{Improvements Cost} \\ & \text{Costs} & & \text{Development} & & \text{Per Employee} \end{array}$$

Table 5.2 presents the calculation of the Non-Residential Improvements Cost Per Employee.

**TABLE 5.2**

**NON-RESIDENTIAL IMPROVEMENTS COST PER EMPLOYEE**

	Net Non-Residential SDC <u>Eligible Costs</u>		Employment <u>Increase</u>		Non- Residential Improvements Cost <u>Per Employee</u>
Growth-Required Facilities	\$1,072,312	÷	3,134	=	\$342

**C. Formula 5c: Non-Residential Tax Credit Per Employee**

Debt instruments will likely be used as a future source for funding capacity improvements. A portion of funds used to repay these debts may come from property taxes paid by growth. A tax credit has been calculated to account for potential payments in order to avoid charging growth twice; once through the SDC, and a second time through property taxes. A credit has been calculated for each type of dwelling unit using the following assumptions:

- \$17.5M in 20 year G.O. bonds at 5.5 %, \$3.5M to be issued in 2007,
- 6.0% average annual increase in total City property valuation for taxes,
- 3.0% annual increase in assessed property valuations,
- 3.0% annual inflation (decrease in value of money),
- Average 2003 property valuation for non-residential (office) development at \$45 per square foot,
- An average of 470 square feet per employee (retail)

$$\begin{array}{rcccl} \text{5c.} & \text{Present Value of} & & \text{Tax} & \\ & \text{Tax Payments Per} & = & \text{Credit Per} & \\ & \text{Employee} & & \text{Employee} & \end{array}$$

The amount of this credit is shown in Table 5.3, below.

**TABLE 5.3**

### TAX CREDIT PER EMPLOYEE

		Tax Credit Per <u>Employee</u>
Present Value of Tax Payments	=	\$77

***D. Formula 5d: Non-Residential SDC Per Employee***

The non-residential SDC rate per employee is calculated by subtracting the tax credit per employee (from Table 5.3, above) from the improvements cost (Table 5.2, page 18).

5d.	Non-Residential Improvements Cost Per Employee	-	SDC Tax Credit Per Employee	=	Non-Residential SDC Per Employee
-----	--	---	-----------------------------------	---	--

The results of these calculations are shown in Table 5.4, below.

**TABLE 5.4**

### NON-RESIDENTIAL SDC PER EMPLOYEE

Improvements Cost Per <u>Employee</u>	-	Tax Credit Per <u>Employee</u>	=	Non-Residential SDC <u>Per Employee</u>
\$342		\$77		\$265

The parks and recreation SDC for a particular non-residential development is determined by:

- 1) dividing the total building space (square feet) in the development by the number of square feet per employee (from the guidelines in Table 5.5, page 20), and
- 2) multiplying the result (from step 1) by the Non-Residential SDC Per Employee (from Table 5.4, above).

For example, the parks and recreation SDC for a 40,000 square foot office building for services such as finance and real estate would be calculated as follows:

- 1)  $40,000 \text{ (sq. ft. building size)} \div 370 \text{ (sq. ft. per employee)} = 108 \text{ employees,}$
- 2)  $108 \text{ employees} \times \$265 \text{ (SDC rate)} = \$28,620.$

For non-residential development where more than one SIC may be used, multiple SICs may be applied based on their percentage of the total development.

**TABLE 5.5**

**SQUARE FEET PER EMPLOYEE**  
(recommended guidelines from *Metro Employment Density Study*)

Standard Industry Classification (SIC)*		Square Feet Per Employee	Standard Industry Classification (SIC)		Square Feet Per Employee
1 - 19	Ag., Fish & Forest Services; Construction; Mining	590	37	Transportation Equipment	700
20	Food & Kindred Products	630	40 - 42,		
22,23	Textile & Apparel	930	44, 45, 47	Transportation and Warehousing	3,290
24	Lumber & Wood	640	43, 46, 48,		
25, 32,			49	Communications and Public Utilities	460
39	Furniture; Clay, Stone, & Glass; Misc.	760	50, 51	Wholesale Trade	1,390
26	Paper and Allied	1,600	52 - 59	Retail Trade	470
27	Printing, Publishing & Allied	450	60 - 68	Finance, Insurance & Real Estate	370
28 - 31	Chemicals, Petroleum, Rubber, Leather	720	70 - 79	Non-Health Services	770
33, 34	Primary & Fabricated Metals	420	80	Health Services	350
35	Machinery Equipment	300	81 - 89	Educational, Social, Membership Services	740
36, 38	Electrical Machinery, Equipment	400	90 - 99	Government	530

\* Source: U.S. Department of Commerce Standard Industrial Classification Manual

## **6.0 ANNUAL RATE ADJUSTMENTS**

City of Tigard Resolution No. 01-13 provides for annual adjustments to parks SDC rates to account for changes in the costs of acquiring and constructing parks facilities. The SDC rate adjustment factor is based on the change in average market value of residential land in Washington County and the change in construction costs according to the Engineering News Record (ENR) Northwest (Seattle, Washington) Construction Cost Index.

# APPENDIX A

SDC PARKS CAPACITY IMPROVEMENTS PROGRAM								page 1 of 5
City of Tigard Parks and Recreation Facilities 2004 - 2008								draft as of 09/03/04
PROJECT	YRS	TOTAL PROJECT COST	% GROWTH NEED	SDC-ELIGIBLE PORTION OF TOTAL COST	% OTHER NEED	OTHER PORTION OF TOTAL COST	PROJECT FUNDING SOURCES	
<b>NEIGHBORHOOD PARKS</b>								
1 Bull Mountain Neighborhood Park Site Acquisition - acquire approximately 3 acres for a neighborhood park to meet growth and non-growth needs in Bull Mountain.	04-08	\$750,000	40%	\$299,250	60%	\$450,750	SDC, Grants, Donations Bonds, Partnerships, LI Sponsorships, Other	
2 Bull Mountain Neighborhood Park Site Acquisition - acquire approximately 3 acres for a neighborhood park to meet growth and non-growth needs in Bull Mountain.	04-08	\$750,000	40%	\$299,250	60%	\$450,750	SDC, Grants, Donations Bonds, Partnerships, LI Sponsorships, Other	
3 Bull Mountain Neighborhood Park Site Acquisition - acquire approximately 3 acres for a neighborhood park to meet growth and non-growth needs in Bull Mountain.	04-08	\$750,000	40%	\$299,250	60%	\$450,750	SDC, Grants, Donations Bonds, Partnerships, LI Sponsorships, Other	
4 Bull Mountain Neighborhood Park Development - develop a neighborhood park of approximately 3 acres to meet growth and non-growth needs in Bull Mountain.	04-08	\$510,000	40%	\$203,490	60%	\$306,510	SDC, Grants, Donations Bonds, Partnerships, LI Sponsorships, Other	
5 Bull Mountain Neighborhood Park Development - develop a neighborhood park of approximately 3 acres to meet growth and non-growth needs in Bull Mountain.	04-08	\$510,000	40%	\$203,490	60%	\$306,510	SDC, Grants, Donations Bonds, Partnerships, LI Sponsorships, Other	
6 Bull Mountain Neighborhood Park Development - develop a neighborhood park of approximately 3 acres to meet growth and non-growth needs in Bull Mountain.	04-08	\$510,000	40%	\$203,490	60%	\$306,510	SDC, Grants, Donations Bonds, Partnerships, LI Sponsorships, Other	

# APPENDIX A

SDC PARKS CAPACITY IMPROVEMENTS PROGRAM							page 2 of 5
City of Tigard							draft as of 09/01/04
Parks and Recreation Facilities							
2004 - 2008							
PROJECT	YRS	TOTAL PROJECT COST	% GROWTH NEED	SDC-ELIGIBLE PORTION OF TOTAL COST	% OTHER NEED	OTHER PORTION OF TOTAL COST	PROJECT FUNDING SOURCES
<b>NEIGHBORHOOD PARKS</b>							
7 Neighborhood Park Site Acquisition - acquire approximately 3 acres for a neighborhood park to meet non-growth needs in the City.	04-08	\$750,000	0%	\$0	100%	\$750,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other
8 Neighborhood Park Site Acquisition - acquire approximately 3 acres for a neighborhood park to meet non-growth needs in the City.	04-08	\$750,000	0%	\$0	100%	\$750,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other
9 Neighborhood Park Site Acquisition - acquire approximately 3 acres for a neighborhood park to meet non-growth needs in the City.	04-08	\$750,000	0%	\$0	100%	\$750,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other
10 Neighborhood Park Site Acquisition - acquire approximately 2.74 acres for a neighborhood park to meet non-growth needs in the City.	04-08	\$685,000	0%	\$0	100%	\$685,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other
11 Neighborhood Park Site Development - develop a neighborhood park of approximately 3 acres to meet non-growth needs in the City.	04-08	\$510,000	0%	\$0	100%	\$510,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other
12 Neighborhood Park Site Development - develop a neighborhood park of approximately 3 acres to meet non-growth needs in the City.	04-08	\$510,000	0%	\$0	100%	\$510,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other



# APPENDIX A

SDC PARKS CAPACITY IMPROVEMENTS PROGRAM								page 3 of 5
City of Tigard								draft as of 09/01/04
Parks and Recreation Facilities								
2004 - 2008								
PROJECT	YRS	TOTAL PROJECT COST	% GROWTH NEED	SDC-ELIGIBLE PORTION OF TOTAL COST	% OTHER NEED	OTHER PORTION OF TOTAL COST	PROJECT FUNDING SOURCES	
<b>NEIGHBORHOOD PARKS</b>								
13 Neighborhood Park Site Development - develop a neighborhood park of approximately 3 acres to meet non-growth needs in the City.	04-08	\$510,000	0%	\$0	100%	\$510,000	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other	
14 Neighborhood Park Site Development - develop a neighborhood park of approximately 2.74 acres to meet non-growth needs in the City.	04-08	\$465,800	0%	\$0	100%	\$465,800	Grants, Donations Bonds, Partnerships, LI Sponsorships, Other	
<b>COMMUNITY PARKS</b>								
15 Bull Mountain Community Park Site Acquisition - acquire approximately 20 acres for a Community Park to meet growth (10.84) and non-growth (9.16) needs in Bull Mountain.	04-08	\$5,000,000	54%	\$2,710,000	46%	\$2,290,000	SDC, Grants, Donations Bonds, Partnerships, LI Sponsorships, Other	
16 Bull Mountain Community Park Development - develop a community park of about 20 acres in size to meet growth (10.84) and non-growth (9.16) needs in Bull Mountain.	04-08	\$4,000,000	54%	\$2,168,000	46%	\$1,832,000	SDC, Grants, Donations Bonds, Partnerships, LI Sponsorships, Other	

# APPENDIX A

SDC PARKS CAPACITY IMPROVEMENTS PROGRAM							page 4 of 5
City of Tigard Parks and Recreation Facilities 2004 - 2008							draft as of 09/01/04
PROJECT	YRS	TOTAL PROJECT COST	% GROWTH NEED	SDC-ELIGIBLE PORTION OF TOTAL COST	% OTHER NEED	OTHER PORTION OF TOTAL COST	PROJECT FUNDING SOURCES
<b>GREENWAYS</b>							
17 Greenways Acquisition - acquire approximately 47.5 acres of greenways to meet growth (19.44) and non-growth (28.06) needs in the City planning area.	04-08	\$6,650,000	41%	\$2,721,600	59%	\$3,928,400	SDC, Grants, Donations, Bonds, Partnerships, LI Sponsorships, Other
<b>TRAILS</b>							
18 Trails Acquisition/Development - acquire/develop approximately 5.11 miles of trails to meet growth (1.16) and non-growth (3.95) needs.	04-08	\$2,657,200	23%	\$603,200	77%	\$2,054,000	SDC, Grants, Donations, Bonds, Partnerships, LI Sponsorships, Other
<b>LINEAR PARKS</b>							
19 Linear Parks Acquisition/Development - acquire/develop approximately 2.78 acres of linear parks to meet growth needs in the City planning area.	04-08	\$667,200	100%	\$667,200	0%	\$0	SDC, Grants, Donations, Bonds, Partnerships, LI Sponsorships, Other

# APPENDIX A

SDC PARKS CAPACITY IMPROVEMENTS PROGRAM							page 5 of 5
City of Tigard							draft as of 09/03/04
Parks and Recreation Facilities							
2004 - 2008							
PROJECT	YRS	TOTAL PROJECT COST	% GROWTH NEED	SDC-ELIGIBLE PORTION OF TOTAL COST	% OTHER NEED	OTHER PORTION OF TOTAL COST	
TOTALS		\$27,685,200	37.49%	\$10,378,220	62.51%	\$17,306,980	
Neighborhood Parks		\$8,710,800	17.31%	\$1,508,220	82.69%	\$7,202,580	
Community Parks		\$9,000,000	54.20%	\$4,878,000	45.80%	\$4,122,000	
Greenways		\$6,650,000	40.93%	\$2,721,600	59.07%	\$3,928,400	
Trails		\$2,657,200	22.70%	\$603,200	77.30%	\$2,054,000	
Linear Parks		\$667,200	100.00%	\$667,200	0.00%	\$0	
Totals		\$27,685,200	37.49%	\$10,378,220	62.51%	\$17,306,980	

## APPENDIX B

### Parks SDC Rates Washington County Cities

	<u>Single Family</u>	<u>Multi-Family</u>	<u>Non-Residential</u>
Sherwood	\$4,996	\$3,851	\$50/employee
Beaverton <sup>1</sup>	\$2,533	\$1,948	\$79/employee
Hillsboro	\$2,168	\$2,168	\$364/parking space
Tualatin <sup>2</sup>	\$2,100	\$2,100	none
North Plains	\$2,144	\$2,308	none
Forest Grove	\$2,000	\$2,000	none
Tigard	\$1,852	\$959	\$131/employee

<sup>1</sup> Tualatin Hills PRD provides parks for the City of Beaverton.

<sup>2</sup> City of Tualatin Parks SDC rate is scheduled to increase to \$3,150 in January 2005.

## APPENDIX C

### Tigard Parks SDC Update Task Calendar

<u>NLT Date</u>	<u>Lead Person</u>	<u>Task</u>
08/25/04	Dan Plaza	Schedule public hearing for November 23 and send Notice to HBA (and to anyone else who has sent a written request for notification). Notice is required 90 days before the first public hearing.
08/30/04	Don Ganer	Prepare draft SDC methodology and project list for review by City Staff.
09/21/04	Dan Plaza	City Council review of draft SDC methodology and project list at work session.
09/24/04	Don Ganer	Have draft SDC methodology report available for public review at City Hall (send or email a courtesy copy to HBA and others). The draft report must be available for public review 60 days prior to the first public hearing.
10/15/04	Don Ganer	Draft updated parks SDC ordinance and resolutions for review and modification by City staff.
08/27 – 11/23	Dan Plaza	Community review of draft parks SDC methodology report.
Nov 23/Dec 2004	All	Public Hearings and City Council Action
Dec 2004	Don Ganer	Update Procedures Guide and Provide Training Session
01/01/05	City	Implement updated Parks SDCs

AGENDA ITEM # 4  
FOR AGENDA OF Sept 21, 2004

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Review Executive Summary of Park and Recreation Needs Assessment Survey

PREPARED BY: Dan Plaza 2590

DEPT HEAD OK 

CITY MGR OK 

ISSUE BEFORE THE COUNCIL

Presentation of Executive Summary of Park and Recreation Needs Assessment Survey

STAFF RECOMMENDATION

Review and accept the summary, provide direction to the staff and Parks and Recreation Advisory Board as to next steps.

INFORMATION SUMMARY

In an effort to identify the park & recreational needs of Tigard residents, a park and recreation needs assessment survey was formulated. Three hundred and eighty-three (383) randomly selected Tigard residents participated in a phone survey. The survey was designed to ascertain Tigard residents' interest in, and willingness to pay for: recreation programs and facilities, e.g. skate park/community recreation center, create a city Recreation Division, or create a Special Recreation District similar to the Tualatin Hills Park and Recreation District in Beaverton, and, purchase land for parks/sports fields and natural resources such as wetlands and green spaces. The survey was conducted by Public Affairs Counsel (PAC). They used a methodology that provides scientifically valid data accurate to +/- 5.0%. The results of the survey will assist the City Council and the Park and Recreation Advisory Board in making decisions pertaining to what should be done regarding parks and recreation in the city of Tigard and when.

OTHER ALTERNATIVES CONSIDERED

n/a

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Council Goal 4 – Parks and Recreation

City Visioning Process – Urban and Public Services Recreation Goal #1

ATTACHMENT LIST

A copy of the Executive Summary was not available from the consultant to attach to this summary. A copy will be delivered with the Council newsletter on Friday, September 17.

FISCAL NOTES

n/a

AGENDA ITEM # 5  
FOR AGENDA OF 9/21/04

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Social Services Grant Review and Funding Process

PREPARED BY: Liz Newton LN DEPT HEAD OK LN CITY MGR OK LN

ISSUE BEFORE THE COUNCIL

Review of the Social Service Grant Funding Process policies, rating criteria and reporting requirements.

STAFF RECOMMENDATION

Approve the proposed Social Service Grant Funding Process policies, rating criteria and reporting requirements.

INFORMATION SUMMARY

At the August 17, 2004 City Council Workshop meeting, staff presented a proposal to revise the Social Service Grant Program Funding process. After discussion, Council directed staff to proceed with modifications to the process and bring proposed policy changes, rating criteria, and reporting requirements back for Council review.

A memo describing the proposed rating criteria and reporting criteria is attached.

OTHER ALTERNATIVES CONSIDERED

Modify the proposed policies, rating criteria and/or reporting requirements.

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

N/A

ATTACHMENT LIST

1. Memo from Liz Newton with Attachments

FISCAL NOTES

N/A

# MEMORANDUM

## Administration



TO: Honorable Mayor and Council

FROM: Liz Newton, Assistant to the City Manager *LN*

DATE: September 10, 2004

SUBJECT: Social Service Grant Funding Process Rating Criteria and Reporting Requirements

### Background:

At the August 17, 2004 City Council Workshop meeting, staff presented recommendations to revise the Social Service Grant Program Funding Process to ensure that a wide range of programs and activities that qualify can be considered for funding and that grant recipients are addressing an unmet or growing social service need in the Tigard community.

After some discussion, the Council directed staff to bring back proposed rating criteria and prioritize criteria as appropriate. In addition, Council requested that the application and reporting requirements be simplified so that needed information is collected, but the reporting requirements aren't so cumbersome they are costly to comply with.

### Issues:

Policy: The Social Service Funding Policy currently in place has not been revisited since 1996. The policy need to be revised to reflect current practice and the proposed changes in the process. A proposed revised policy is attached.

Rating Criteria: The rating criteria presented by staff at the August 17 Workshop meeting included the funding criteria in the existing Social Service Policy along with classification and additions. Council concurred with the proposed criteria with some suggested modifications.

Staff recommends the following criteria be adopted:

- 1 The agency's service meets an unmet or growing social service need in the City of Tigard. (A majority of the clientele served are Tigard residents). **20 points**
- 2 The agency has been providing service to Tigard residents for at least one year prior to the date of application. **10 points**



3. The service or program is convenient to Tigard residents (both location and hours service is available). **10 points**
4. The agency is fiscally responsible; operates with a balanced budget. **20 points**
5. The agency demonstrates efforts to explore other funding options. **20 points**
6. The agency demonstrates that a smaller portion of their funding serves the same number of Tigard residents or more Tigard residents are served for the same funding level from the City in the previous fiscal year. **20 points**

Staff will incorporate the rating criteria as approved by council into a revised Social Services Grant Funding application form.

Reporting Requirements: Staff contacted the Washington County cities of Hillsboro, Tualatin, and Beaverton to obtain copies of grant funding reporting forms. Tualatin does not require reports. Samples of the forms used by Beaverton and Hillsboro are attached.

Based on Council's comments at the August 17 work session, staff drafted the attached Social Services Grant Funding reporting form. The report reflects the proposed grant approval criteria and the format is designed to require information similar to other cities and be easy to prepare.

Staff will finalize the report format based on Council's comments and direction.

**Next Steps:**

Staff will prepare a revised application packet which will include the rating criteria and report format and begin outreach to potential qualified agencies in mid-October.

CITY OF TIGARD  
BUDGET COMMITTEE

**SOCIAL SERVICE FUNDING POLICY**

The City of Tigard receives funding requests from various agencies and non-profit corporations each year during the budget process. This policy provides the framework within which funding decisions will be made by the Budget Committee.

1. The maximum social service agency funding total each year will be one - half of one percent of the previous year's operating budget, rounded to the nearest \$1,000.
2. Agencies requesting City funds shall:
  - a. Demonstrate that the Agency has been providing service to the City of Tigard residents for at least one year prior to the date of application.
  - b. Demonstrate that the Agency's services address a current or growing social service need in the City of Tigard.
  - c. Be registered with the Internal Revenue Service with a 501 (c )(3) Not for Profit tax status.
  - d. Be run by a volunteer Board of Directors with representation from the City of Tigard that is reflective of the agency's overall geographic membership and client service.
  - e. Operate with a balanced budget
  - f. Be incorporated in the State of Oregon and registered to do business here.
  - g. Fill out and submit a completed application to the City of Tigard Finance Department by the deadline set in the application.
  - h. Provide written reports on a bi-annual basis during the period of funding. Reports must include information related to the use of City funds and a discussion of services provided to Tigard citizens.
3. The Social Services Funding Subcommittee shall review the applications from each requesting agency and prepare a recommendation to the Budget Committee on which agencies should be funded and how much requesting agencies should be awarded. The total amount of the funding recommended shall not exceed the maximum social service agency funding total for the upcoming fiscal year.

4. The Budget Committee will consider the recommendation of the Social Services Funding subcommittee as part of the City's budget approval process.
5. Those agencies selected for funding will be notified upon approval of the City's budget.

\\adm\l\z\memos\budget comm social service funding policy040910.doc9/10/04

**CITY OF BEAVERTON  
SOCIAL SERVICE FUNDING GRANT 2004-2005  
FIRST QUARTER REPORT  
JULY 1, 2004 – SEPTEMBER 30, 2004**

Program Name: \_\_\_\_\_

How many clients did your program serve during the first quarter (July 1 – September 30, 2004)? \_\_\_\_\_

How many of those clients served during the first quarter were Beaverton residents?

\_\_\_\_\_

What services and/or expenses were paid for by the first quarter payment?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**If necessary, please update your contact information:**

Mailing Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Email address: \_\_\_\_\_

Contact Person: \_\_\_\_\_ Title: \_\_\_\_\_

Phone Number: (503) \_\_\_\_\_ Fax Number: (503) \_\_\_\_\_

Please mail the completed form to: Joyce Storms  
City of Beaverton  
P.O. Box 4755  
Beaverton, OR 97076

Or, fax this form to: Joyce Storms, City of Beaverton (503) 526-2571

**THE FIRST QUARTER REPORT IS DUE BY FRIDAY, OCTOBER 29, 2004.**

# CITY OF HILLSBORO

## Community Programs 2004-2005 Grant Application

### Project Evaluation Form

***This form MUST be returned within 90 days of the completion of the project/activity or Agency's year-end, as applicable***

1. Who benefited from your activity/project?
  - Approximately how many?
  - Where from?

2. List and evaluate the measurable goals as described in your grant application.

3. Will this activity/project be recurring? How do you anticipate funding the activity/project in the future?

**CITY OF HILLSBORO**  
**Community Programs 2004-2005 Grant Application**  
**Project Evaluation Form**

***This form MUST be returned within 90 days of the completion of the project/activity or Agency's year-end, as applicable***

4. If a specific project budget was provided in your application, please provide a comparison of the budget to actual in a separate spreadsheet (*see attached Budget/Actual Recap worksheet*). If funding was used to supplement operations, please provide a copy of the financial statements covering the funding period. Please use the space below to make any comments pertaining to the financial information provided.

---

---

---

---

---

---

---

---

5. How would you rate the City of Hillsboro's Community Programs Grant Application process on a scale of 1 to 10, with 10 being the best? Please provide any comments that may make this a more efficient process in the future.

---

---

---

---

---

---

---

---

**PLEASE READ AND INITIAL THE FOLLOWING:**

*Organizations and Agencies applying for funds under this program are obligated to spend funds in the manner described in their application. All funds not specifically used for the purposes described need to be returned to the City of Hillsboro. Failure to meet all or most of the objectives outlined in the application may result in future disqualification from applying and receiving City of Hillsboro Community Program Funds.*

*By initialing here, I am indicating that I have read and understand the above.*



## Social Service and Community Events Report

Name of Organization:

Attachments: *(Listing of Attachments, if any)*

Reporting Period:

Amount of Grant:

Amount Spent Year-to-Date:

**SUMMARY: (Statement of Grant Purpose and/or Intended Use)**

**How many clients did your program serve during this period? How many of those clients served were Tigard residents?**

**What services were paid for with the grant funds during this reporting period?**

**What other funding sources have you pursued during this funding period?**

**How have the funds been used to address an unmet or growing social service need in Tigard?**

AGENDA ITEM # 6  
FOR AGENDA OF 9/21/04

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE TriMet Commuter Rail Station Design

PREPARED BY: Jim Hendryx DEPT HEAD OK [Signature] CITY MGR OK [Signature]

ISSUE BEFORE THE COUNCIL

TriMet will update City Council on the proposed designs for the Washington Square and Downtown Tigard Commuter Rail stations and ask for Council comments.

STAFF RECOMMENDATION

That Council provide comments to TriMet regarding the proposed design alternatives.

INFORMATION SUMMARY

TriMet—along with Tigard, Beaverton, Tualatin, Wilsonville and other regional partners— is planning a Commuter Rail train system that would carry commuters from Wilsonville to Beaverton beginning in fall 2007. Tigard will have two stations: Downtown and Washington Square.

As TriMet refines the stations, it must balance safety and design. TriMet has been coordinating with the Downtown Task Force on the Downtown station since 2002. Staff planners presented two proposed station alternatives at the Aug. 5, 2004, Task Force meeting and took comments. TriMet has also been working with all the jurisdictions through a design group that meets periodically. City Community Development and Police staff have been examining both the Washington Square and Downtown alternatives.

Tonight, TriMet will provide an update on the project and present all the station design alternatives for Council's comments.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Community Character and Quality of Life/Central Business District Goal #1, Provide opportunities to work proactively with Tigard Central Business District Association (TCBDA) businesses and property owners and citizens of Tigard to set the course for the future of the central business district.

Transportation and Traffic Goal #3, Alternative Modes of Transportation are Available and Use is Maximized.



---

ATTACHMENT LIST

Attachment 1: Commuter Rail Overview from TriMet

---

FISCAL NOTES

None.



## COMMUTER RAIL

### Overview

*The Washington County Commuter Rail line will offer a new transportation route within the heavily used Interstate 5 and Highway 217 corridor. Using existing freight tracks, it will connect to TriMet MAX light rail in Beaverton and serve Washington Square, Tigard, Tualatin and Wilsonville. Final design is underway and the line could open in fall 2007.*

### Length and route

- The proposed 14.7-mile project will share freight train tracks with the Portland & Western Railroad in eastern Washington County.

### Frequency and travel time

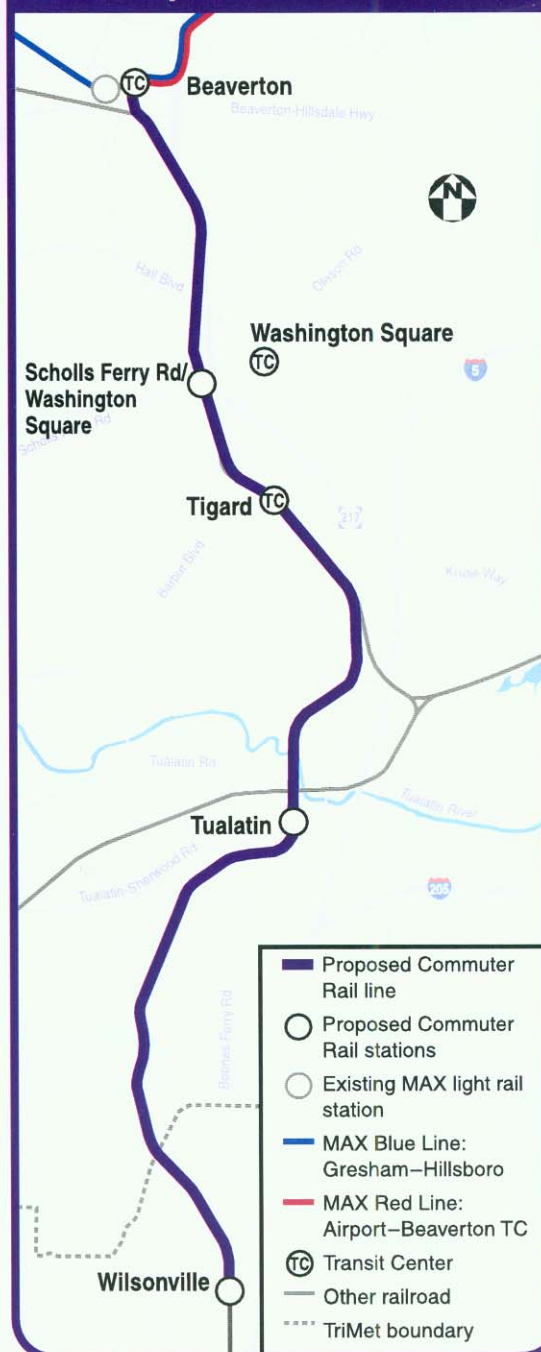
- Commuter Rail will operate weekdays every 30 minutes during morning and afternoon rush hours.
- The trip from Beaverton Transit Center to Wilsonville will take 27 minutes.
- Train speeds will average 37 mph, with a top speed of over 60 mph.

### Stations

The five stations will include a total of approximately 800 Park & Ride spaces at four stations:

- Beaverton Transit Center will connect with 11 TriMet bus lines and MAX Blue and Red lines serving the Beaverton to Hillsboro corridor, downtown Portland and Portland International Airport.
- Scholls Ferry Rd/Washington Square station, located across Highway 217 from the Washington Square Mall, will have about 200 parking spaces and connect to local TriMet bus lines serving residential and employment areas.
- The downtown Tigard Transit Center station will provide about 120 parking spaces and connect with five TriMet bus lines.
- Tualatin station will have about 120 parking spaces and connect to local TriMet bus service.
- Wilsonville station will have about 400 parking spaces and connect with SMART buses serving residential and employment areas.

### Proposed Stations



### Project partners:

Commuter Rail is a project of TriMet, Washington County, Metro, the Oregon Department of Transportation and the communities of Beaverton, Tigard, Tualatin and Wilsonville.





## Ridership

- Average daily ridership is estimated between 3,000 and 4,000 trips by 2020, with half of the riders new to transit.

## Vehicles

- TriMet will work with U.S. and international rail car builders to design and build a self-propelled diesel vehicle that meets all federal safety standards.



*Two prototypes of new self-propelled diesel rail cars.*

- Initial proposals from rail car builders are due in summer 2004.

## Street improvements and construction

- Using existing freight tracks in a dedicated corridor will mean minimal construction impacts for most of the new line.
- A short section of new track will be constructed in Lombard Avenue between Farmington Road and Beaverton TC at the same time planned street improvements will be made.

## Public art program

- The Commuter Rail Art Advisory Committee, composed of representatives from every station area, will guide the public art program.
- A team of artists, Frank Boyden and Brad Rude, will create art for each of the 5 stations.

## Funding

The \$103.5 million project will be funded by:

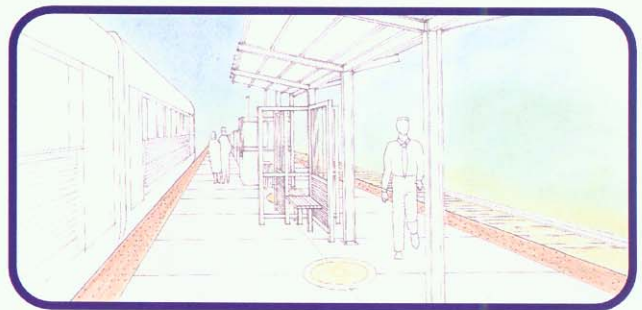
- \$51.75 million in federal funding
- \$35 million from state lottery bond proceeds
- \$10.25 million from the Metro Transportation Improvement Program
- \$6.5 million from local cities and Washington County
- TriMet and Washington County will contribute a total of \$4.1 million to annual operating costs.

## Timeline

- A Full Funding Grant Agreement, which assures construction funding, could be secured as early as spring 2005.
- Construction would get underway soon afterward.
- Commuter Rail line could open in fall 2007.

## Project partners

- Washington County; the cities of Beaverton, Tigard, Tualatin, Wilsonville and Sherwood; TriMet; Metro; and the Oregon Department of Transportation initiated a feasibility study of Commuter Rail in 1996.
- The project has received strong support from the public and business community.



## For more information:

Design and Construction • Carlos Banks • 503-962-2867

Public Art Program • Mary Priester • 503-962-2291

DBE/Diverse Workforce Programs • Bruce Watts • 503-962-2217

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Discuss Council Groundrules - Visitor's Agenda

PREPARED BY: Joanne Bengtson [Signature] DEPT HEAD OK [Signature] CITY MGR OK [Signature]

ISSUE BEFORE THE COUNCIL

Should the City Council revise the Visitor's Agenda portion of the Council Groundrules?

STAFF RECOMMENDATION

Staff recommends that the City Council review the information collected by staff on Visitor's Agenda format from other cities and provide direction on changes to the City's current process.

INFORMATION SUMMARY

At the request of City Council, on August 19, 2004 City Administration conducted a poll of cities through the Oregon Association of Municipal Recorders. We requested samples and information regarding their Visitor Agenda process.

All cities contacted have a Visitor Agenda which require speakers to sign in (samples attached) to speak on a topic not already listed on the meeting agenda. Most limit the speakers to 2 - 3 minutes. Beaverton and Troutdale allow 5 minutes. Only 3 of the 11 cities limit the total amount of time allowed for the Visitors Agenda. Washington County also limits the time, but returns at the end of the meeting for 30 minutes to allow speakers that did not get a chance to address the Commissioners at the first "Oral Communication".

Each city refers to the Visitor Agenda as something different, including: "Citizen Communication", "Public Testimony", "Communication on Non-Agenda Items", "Verbal Communication", "Audience Participation", "Public Comment" and "Citizen Input".

The smaller cities were the most informal. McMinnville doesn't move ahead with their agenda until everyone gets a chance to speak. Washington County's process was the most detailed, outlining every eventuality and it was the only location that restricts speakers to only one oral communication per meeting. A matrix is attached that summarizes how various cities address the "Visitor's Agenda".

When issues are raised by a speaker that require a response, 8 of the 11 cities have the Mayor or Council answer the speaker with the other two cities deferring to staff. In all cases a staff member or the City Manager would follow-up with the speaker if their issue was not resolved at the meeting. Only two cities would add the speaker to the next regular agenda if the item was not resolved at the current meeting.

VISITOR'S AGENDA RESPONSES BY CITY	Beaverton	Forest Grove	Keizer	Lake Oswego	McMinnville	Molalla	Ore. City	The Dalles	Troutdale
Visitor Agenda allowed by Council ?	yes	yes	yes	yes	yes	yes	yes	yes	yes
Agenda Order in meeting	4th -after proclamations	varies	after call to order	6th, after consent	near end-	2nd	2nd	6th	near beginning
Agenda Item Title	Citizens communications	Citizen Communication	Public Testimony	Citizen Comment	Communic. On non-agend items	Verbal Communication	Verbal Communication	Audience Participation	Public Comment
Limited to NON-AGENDA items?	yes	yes	yes	yes	yes	yes	yes	yes	yes
sign in sheets used?	cards	sheet	individual sheet	cards	yes	no, verbal call only	cards	no	sign-in sheet for all attending
Time Limit of speaker?	5 min	2 min	3 min	3 min	no	no, council discretion	3 min	5 min	5 min, not strict
Agenda item total time-limited to move fwd?	no	yes	hasn't happened	yes, 30 min	no	no	yes	no	no
If limited, return to speakers later in meeting?	N/A	Mayor req. 1 speaker make statement for grp.		next agenda citizen notified	everyone gets to speak	next meeting agenda	Mayor's discretion	n/a	on next agenda
Issues raised that require a response?	yes	yes	yes	yes	yes	yes	yes	yes	yes
Who answers speaker	Mayor	Mayor/Council	Council	Council, if simple	council	staff	Mayor	Staff	Mayor
Item referred to staff?	yes, when app.	unknown	yes	yes	sometimes	yes	sometimes	yes	Mayor asks City Recorder
Who follows up with speaker?	staff or Mayor	unknown	staff	Dept. Director	staff/council	On next agenda if can't resolve at mtg	City Manager	Staff	to schedule on next agenda
Public Hearing sign in different than V.A.?	no	yes	yes	no	?	N/A		N/A	N/A
Allow different time limit for Public Hearings?		To speak to agenda issue public hearing must be on agenda or no comment allowed	yes- 5 min public comment on issues not scheduled for PH are at Mayor's discretion	5 min-person 10 min- CPO 15 min- Applicant	?	N/A	yes		N/A

VISITOR'S AGENDA RESPONSES BY CITY	Washington Co.	Wilsonville
Visitor Agenda allowed by Council ?	yes	yes
Agenda Order in meeting	3rd, after consent	4th
Agenda Item Title	Oral Communication	Citizen Input & Communication Announcement
Limited to NON-AGENDA items?	yes	yes
sign in sheets used?	sign-in sheet	only if expecting many speakers
Time Limit of speaker?	2 min, longer at end of mtg	only if many sign up to talk
Agenda item total time-limited to move fwd?	yes - 30 min	requires CC vote to extend
If limited, return to speakers later in meeting?	yes, 5 min per person, 10 min per topic	
Issues raised that require a response?	yes	yes
Who answers speaker	Chairman	Council
Item referred to staff?	staff	yes
Who follows up with speaker?	On next agenda if not resolved	Staff and City Manager
Public Hearing sign in different than V.A.?	yes	not answered
Allow different time limit for Public Hearings?	1st & 2nd Hearings: 3 min for individuals/12 min group Additional Hearings: 2 min-individuals/5 min group speakers limited to ONE oral communication	not answered

SAMPLES

OREGON CITY



OREGON CITY - CITY COMMISSION MEETING  
Sign-In To Give Testimony  
Hand To Mayor or City Recorder  
(Please Print)

Name: \_\_\_\_\_

Address: \_\_\_\_\_  
\_\_\_\_\_

Phone: \_\_\_\_\_

Agenda #: \_\_\_\_\_

Issue: \_\_\_\_\_

For: \_\_\_\_\_ Against: \_\_\_\_\_

Today's Date: \_\_\_\_\_

08/20/2004 14:15 FAX 5035262479

BEAV CITY HALL 3rd FLOOR

BEAVERTON

BEAVERTON



Subject of your testimony \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Position on issue ( ) FOR ( ) AGAINST

Name

Date

Street

City

State

Zip

Phone

I represent

( ) Myself

( ) Other

Date: \_\_\_\_\_

Agenda Item No. \_\_\_\_\_

Subject: \_\_\_\_\_

## Request to Testify at Public Hearing

The Mayor will announce the opening of the public hearing. A staff report will be read first. The Mayor will then ask for public testimony along with instructions on the type of testimony that is admissible. When the Mayor calls your name to testify, move to the center table and begin your testimony by stating your name and address for the record, and state your support, opposition or question(s) relating to the issue. In the interest of time, please be prepared to summarize your comments to three minutes.

PLEASE SIGN UP BELOW:

**Proponents:** *(Please print legibly)*

**Name:**

**Address:**

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

**Opponents:** *(Please print legibly)*

**Name:**

**Address:**

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

**Other:** *(Please print legibly)*

**Name:**

**Address:**

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

---

# CITIZEN COMMUNICATIONS

## Item 2 of the City Council Agenda

Anyone wishing to address the Council on an item **NOT** on the printed agenda may do so. The Mayor will announce Citizen Communications and ask if anyone wishes to be heard; please sign up below if you wish to speak to the Council. When the Mayor calls your name, move to the center table and begin by stating your name and address for the record, and state your comments. In the interest of time, please limit your comments to two minutes.

### PLEASE SIGN UP BELOW:

Name	Address	Phone
------	---------	-------

Topic:		
--------	--	--

Name	Address	Phone
------	---------	-------

Topic:		
--------	--	--

Name	Address	Phone
------	---------	-------

Topic:		
--------	--	--

Name	Address	Phone
------	---------	-------

Topic:		
--------	--	--

Name	Address	Phone
------	---------	-------

Topic:		
--------	--	--



AGENDA ITEM NUMBER \_\_\_\_\_  
DATE \_\_\_\_\_

IN FAVOR



LAKE OSWEGO CITY COUNCIL  
REQUEST TO SPEAK IN FAVOR OF THE  
ITEM OR THE APPEAL

Subject \_\_\_\_\_  
\_\_\_\_\_

Name \_\_\_\_\_

Address Number Street City

State Zip Telephone

Are You Part of an Organized Presentation? ☐ No ☐ Yes  
If Yes, List Speakers In Order of Presentation.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please read *Welcome to the Meeting* brochure for procedures.  
The Mayor will call you to the microphone at the appropriate time.

SUBMIT TO CITY RECORDER

AGENDA ITEM NUMBER \_\_\_\_\_  
DATE \_\_\_\_\_

OPPOSED



LAKE OSWEGO CITY COUNCIL  
REQUEST TO SPEAK IN OPPOSITION TO  
THE ITEM OR THE APPEAL

Subject \_\_\_\_\_  
\_\_\_\_\_

Name \_\_\_\_\_

Address Number Street City

State Zip Telephone

Are You Part of an Organized Presentation? ☐ No ☐ Yes  
If Yes, List Speakers In Order of Presentation.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please read *Welcome to the Meeting* brochure for procedures.  
The Mayor will call you to the microphone at the appropriate time.

SUBMIT TO CITY RECORDER

AGENDA ITEM NUMBER \_\_\_\_\_  
DATE \_\_\_\_\_

NEUTRAL



LAKE OSWEGO CITY COUNCIL  
REQUEST TO SPEAK NEUTRALLY ON  
THE ITEM OR THE APPEAL

Subject \_\_\_\_\_  
\_\_\_\_\_

Name \_\_\_\_\_

Address Number	Street	City
State	Zip	Telephone

Are You Part of an Organized Presentation? ☐ No ☐ Yes  
If Yes, List Speakers In Order of Presentation.

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please read *Welcome to the Meeting* brochure for procedures.  
The Mayor will call you to the microphone at the appropriate time.

SUBMIT TO CITY RECORDER

- buff color paper  
each side color  
(tri-color?)
- brochure rack
- tri-fold general info  
about CC Mtgs
- golf pencils/no pens,  
don't disappear

## PUBLIC TESTIMONY

IF YOU ARE INTERESTED IN ADDRESSING THE COUNCIL ON AN ISSUE NOT LISTED ON THE AGENDA OR AN ITEM ON THE AGENDA NOT SCHEDULED FOR A PUBLIC HEARING, PLEASE FILL OUT THE INFORMATION BELOW AND GIVE TO THE CITY RECORDER OF STAFF GREETER PRIOR TO THE START OF THE MEETING. THE MAYOR WILL RECOGNIZE YOU AND ASK FOR YOUR TESTIMONY AT EITHER THE PUBLIC TESTIMONY SECTION OF THE MEETING OR THE APPROPRIATE AGENDA ITEM.

EACH PERSON'S COMMENTS WILL BE LIMITED TO FIVE MINUTES.

---

Name: \_\_\_\_\_

Address: \_\_\_\_\_

---

Subject or Agenda Item Number: \_\_\_\_\_

---

Your Comments:

Proponent: \_\_\_\_\_ Opponent: \_\_\_\_\_ General: \_\_\_\_\_

Date: \_\_\_\_\_

## PUBLIC TESTIMONY

IF YOU ARE INTERESTED IN ADDRESSING THE COUNCIL ON AN ISSUE NOT LISTED ON THE AGENDA OR AN ITEM ON THE AGENDA NOT SCHEDULED FOR A PUBLIC HEARING, PLEASE FILL OUT THE INFORMATION BELOW AND GIVE TO THE CITY RECORDER OF STAFF GREETER PRIOR TO THE START OF THE MEETING. THE MAYOR WILL RECOGNIZE YOU AND ASK FOR YOUR TESTIMONY AT EITHER THE PUBLIC TESTIMONY SECTION OF THE MEETING OR THE APPROPRIATE AGENDA ITEM.

EACH PERSON'S COMMENTS WILL BE LIMITED TO FIVE MINUTES.

---

Name: \_\_\_\_\_

Address: \_\_\_\_\_

---

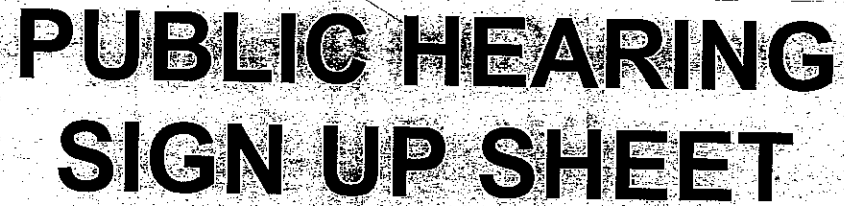
Subject or Agenda Item Number: \_\_\_\_\_

---

Your Comments:

Proponent: \_\_\_\_\_ Opponent: \_\_\_\_\_ General: \_\_\_\_\_

Date: \_\_\_\_\_



Please Print

[illegible]

AGENDA ITEM # 8  
FOR AGENDA OF September 21, 2004

CITY OF TIGARD, OREGON  
COUNCIL AGENDA ITEM SUMMARY

ISSUE/AGENDA TITLE Process for Contiguous Annexations

PREPARED BY: Jim Hendryx DEPT HEAD OK [Signature] CITY MGR OK [Signature]

ISSUE BEFORE THE COUNCIL

Opportunities and options for annexation of properties contiguous to the City.

STAFF RECOMMENDATION

Consider options and provide direction.

INFORMATION SUMMARY

Council was most recently briefed on the City's policies and practices of annexation of contiguous properties during the study session of the September 14, 2004 Council meeting. The purpose of this agenda item is to update Council on those policies and receive direction should there be a need to change policy and practice. In exchange for the City's provision of services, the current practice is to require properties within Tigard's Urban Services Area and adjacent to the city limits to annex prior to development, i.e., final plat approval. Properties within the Urban Services Area but not adjacent to the city limits are required to submit consents to annexation at the time of development approval. ORS 222.115 allows cities and property owners to enter into a written annexation contract and consent to annex.

Several properties are currently undergoing development in unincorporated Bull Mountain. Council recently took action to place the Bull Mountain Annexation issue separately before the voters of unincorporated Bull Mountain and the City of Tigard on the November 2, 2004 ballot. Unincorporated Bull Mountain will continue to develop regardless of the outcome of the November election. The issue before Council is whether to proceed with annexation where properties are adjacent to the City and/or initiate annexations of those properties where consents to annexation exist. Under State statutes, annexations cannot become effective within 60 days prior to a general election. This means that we can currently process an annexation, however, it cannot become effective until November 3<sup>rd</sup>.

OTHER ALTERNATIVES CONSIDERED

N/A

VISION TASK FORCE GOAL AND ACTION COMMITTEE STRATEGY

Growth and Growth Management, Goal #2 – Urban services are provided to all citizens within Tigard's urban growth boundary and recipients of services pay their share.

---

## ATTACHMENT LIST

- Exhibit A: Memo, Process for Contiguous Annexations  
Attachment 1: Summary of Comprehensive Plan Policies  
Attachment 2: Memo from Gary Firestone, Annexation Without Elections
- Exhibit B: Map of Current Development Projects in Unincorporated Washington County

---

## FISCAL NOTES

The current Parks System Development Charge (SDC) is \$1,852 per single family detached dwelling. Assuming that Summit Ridge, Bella Vista, and the Gooley property would be built with single family detached dwellings prior to annexation, the potential Park SDC revenue would equal \$381,512. Attached dwellings (row houses) are assessed a lower SDC of \$1,163 and multi-family dwellings pay \$959 per unit. Assuming Alberta Rider would be built prior to annexation, the City would lose Park SDCs also. Schools are currently assessed a Park SDC fee of \$31 per full time employee. At this time, we do not know how many employees will be at the Alberta Rider School.

Other land use applications aren't far enough in the review process to know how many lots and lost SDCs are involved.



## MEMORANDUM

### CITY OF TIGARD

TO: Mayor and City Council members

FROM: Jim Hendryx, Community Development Director *file for JNPH*

DATE: August 30, 2004

SUBJECT: Process for Contiguous Annexations

The City Council was updated this past spring regarding the existing process regarding annexation of contiguous properties, consents to annex and the issue of lost Park SDC's if development occurs prior to annexation. This memo builds upon and expands upon these prior discussions. It should be noted that these options could be considered regardless of the Bull Mountain Annexation vote in November. If the annexation vote passes in November, timing for annexation of particular properties, pending development, could be a consideration for collection of Park SDC's, if the County does not establish an interim Park SDC.

#### Existing Policy and Practice regarding annexation

Consistent with the Comprehensive Plan policies (refer to Attachment 1 for summary of Comprehensive Plan policies), the City has required properties in the Urban Services Area to annex prior to or as a condition of their development if they are contiguous to the City limits. Annexation has not been required for properties not contiguous because irregular and confusing boundaries would be created. In those instances, consents to annex are currently required. The City began the practice of requiring consents to annex for any non-contiguous land development within the Urban Service Area after direction provided by the City Council regarding the Thornwood Subdivision in 2000. Since that time, subdivisions have been conditioned to either annex (if adjacent to the City) or sign consents to annex. Of the 17 subdivisions approved since Tigard began development review of the Urban Services Area (1997), 5 annexed prior to final plat, 2 signed consents to annex and 4 have been conditioned to sign consents to annex. Six subdivisions do not have valid consents to annex because the subdivisions were processed prior to Council direction on development within the Urban Services Area. There are also 3 subdivisions in process which will be required to sign consents or annex, if approved.

With a number of consents existing or pending, the City has some opportunities to examine the existing policy and determine if other approaches are more appropriate. Below is a discussion of the opportunities as well as some identified alternatives for Council to consider. Preferred options are provided for Council which will result in 1.) the collection of some Park SDC's that previously may not have been collected and 2.) a planned and efficient annexation approach for future annexations. The City Attorney has provided a memo (Attachment 2) that outlines various methods of annexation and specifically answers under what circumstances annexation can occur without an election.

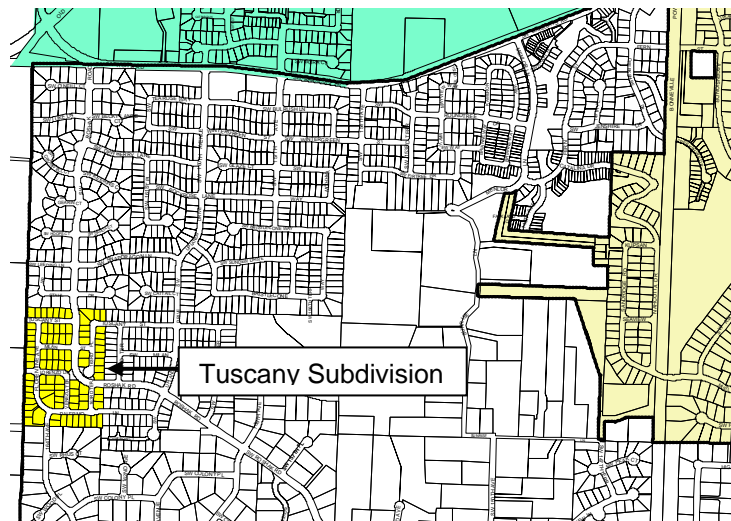
#### Consent to annex

The City has 2 consents to annex that have been recorded and are valid and several more pending. The pending consents to annex and waivers of the one year time limit for the consents have been required as conditions of approval for recent decisions, but the conditions have not been satisfied yet. The areas with valid (signed and recorded) consents are Tuscany Estates and Bella Vista.

#### ***Evaluation of Tuscany Estates***

The map below shows that Tuscany has been primarily built out and is at the western edge of the urban services area. Since Tuscany Estates is primarily built, there would be no opportunity to capture Park SDC's for this development. The current assessed value for all lots in the subdivision (most recent assessment does not include homes) is approximately \$6.7 million, however, due to the distance from the existing City limits, service provision would not be very efficient. There are two alternatives identified for this area:

**Option A:** Act on the consents to annex and annex right of way between the existing City of Tigard City limits and this area. The map shows that, in order to bring this site in, annexation of extensive right of way would be needed. This would result in irregular boundaries which could cause confusion to service providers and is inconsistent with current Comprehensive Plan policies and County policies regarding annexation. If this alternative were chosen, the Council would need to consider amending the Comprehensive Plan.



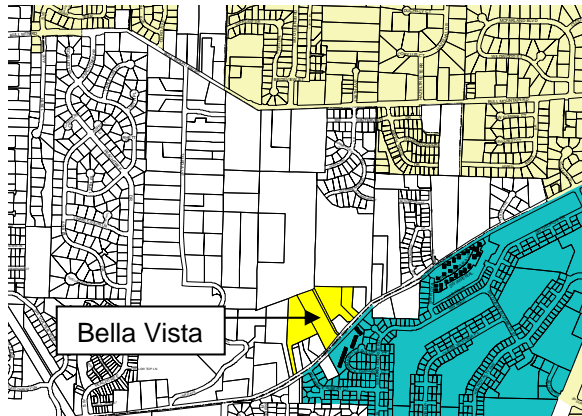
**Option B:** Do not act on at this time and wait until more properties are annexed or annexation consents signed that would allow for a more uniform boundary. Because the consents are recorded with a waiver of the one year time limit, there is no risk with waiting beyond one year to act upon them.



**Preferred option:** (Option B) Council take no action at this time on the consents to annex for the Tuscany Subdivision.

### ***Evaluation of Bella Vista***

The following map shows the second area that Tigard has a consent to annexation for, Bella Vista subdivision. Bella Vista is located between Beef Bend and Bull Mountain road, near the Alberta Rider school site. Bella Vista has been platted, but substantial construction has not begun yet. Based on the number of lots in the subdivision that have not been built upon at this time, it is estimated that approximately \$17,000 in Parks SDC's (based on the current SDC methodology) would be generated if the area were



inside the City limits immediately. While Bella Vista is currently not adjacent to the City limits, it differs from Tuscany in that there are several projects underway that have been or will be conditioned to annex or sign consents to annex which would connect this site to the City limits.

### ***Pending developments***

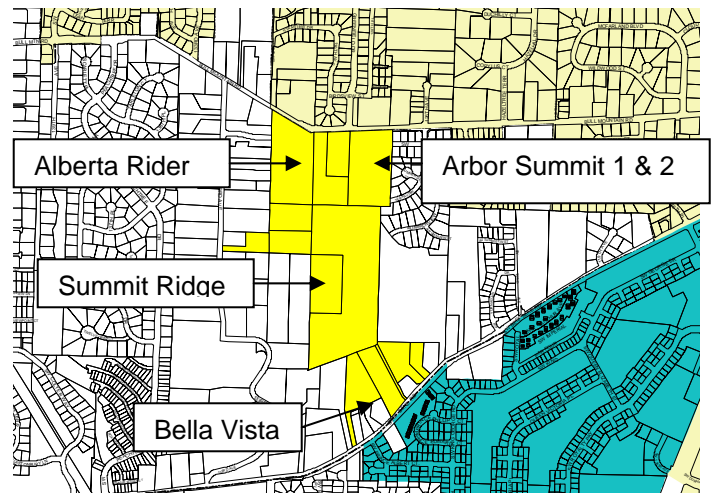
An additional subdivision directly north of Bella Vista, Summit Ridge, has been conditioned to sign a consent to annex. Alberta Rider

Elementary School has been conditioned to annex which will bring the City limits to the edge of these subdivisions before substantial house construction were completed.

Arbor Summit 1 is under review and pending a final decision and Arbor Summit 2 has an application in that has not been deemed complete, however, a petition for annexation has been received for these properties.

As a result of the multiple projects in process near Bella Vista, several alternatives have been identified for annexation of Bella Vista:

**Option A:** Act only on the existing Bella Vista consent and annex right of way to bring the City limits to the property. This will create a temporary irregularity in the boundary. An outstanding issue is that emergency service providers must be able to provide adequate service to this area.



**Option B:** Once we receive the consents to annex from Alberta Rider and Summit Ridge, act on the consent to annex and annex the Alberta Rider School site, Summit Ridge and Arbor Summit at the same time. This may create a temporary irregularity in the boundary because there will be unincorporated areas south of Bull Mountain between the existing City limits and this area. Emergency service providers must be able to provide adequate service to this area.

**Option C:** Once we receive the consents to annex from Alberta Rider and Summit Ridge, act on the consent to annex and annex the Alberta Rider School site, Summit Ridge and Arbor Summit and take in additional property using the double majority annexation method. The double majority method is authorized by ORS 222 and requires a majority of property owners and majority of registered voters to support annexation.

**Option D:** Once we receive the consents to annex from Alberta Rider and Summit Ridge, act on the consent to annex and annex the Alberta Rider School site, Summit Ridge and Arbor Summit and annex the Beef Bend right of way. This would create an island and the unincorporated areas could be brought in through the island annexation process.

**Option E:** Do nothing at this time. Wait until more consents have been recorded and/or additional properties annex to ensure that there will be no island or irregular service boundaries. Because the consents are recorded with a waiver of the one year time limit, there is no risk with waiting beyond one year to act upon them.

**Preferred option:** (Option C) In order to capture anticipated Park SDC's prior to development, act upon the Bella Vista consent to annex and once we receive the consents, bring it in along with Summit Ridge, Alberta Rider and Arbor Summit (which currently has an annexation petition filed) and bring in additional properties via the double majority annexation method. Coordinate with the existing and future service providers to ensure that the configuration of properties annexed is planned to minimize confusion for emergency service provision.

#### Properties contiguous to City limits

As noted above, the current practice is to require development adjacent to the City limits to annex prior to development (e.g., Final Plat approval) and to process any requested annexation that is adjacent to the City limits immediately. Examples include Alberta Rider School, Arbor Summit, and Summit Ridge. This brings these properties into the City prior to building permits and SDC's being paid, however, it is a piece-meal annexation method that can result in irregular boundaries. In the past, the City has changed its practice regarding how proactive it is in bringing in additional properties utilizing the double majority method. In most cases, the City has not annexed additional properties to create a more uniform boundary, however, more recently, the City has been more proactive. An example of this is annexation of the BPA powerline right of way as part of the annexation of the Pacific Crest Subdivision.

The Council should decide if this outcome, the continued piece-meal annexation method, is efficient or if they want to take a more planned and proactive approach to annexation. There are several alternatives identified:

**Option A:** Continue to annex properties at the property owner request and require it with new development adjacent to the City limits (status quo).

**Option B:** Continue to annex properties at the property owner request but also take full advantage of the double majority method and require additional properties to annex if it will create a more uniform boundary.

**Option C:** Cease annexing at property owner requests and requiring annexation as part of development approval, but instead, require consents to annex and waivers of the one year time limit on these consents so that annexations can be done in a more planned and efficient way. It should be noted that pending the outcome of the Washington County interim Park SDC, this method may result in the loss of SDC's if annexations are not accomplished prior to building permits.

All of the alternatives identified above are consistent with existing policies.

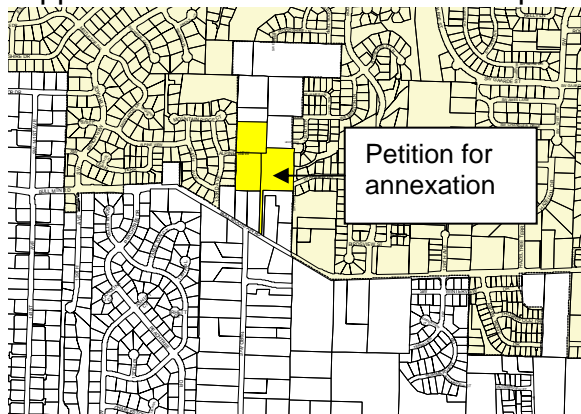
**Preferred option:** The preferred option depends on whether the County adopts a park SDC for the unincorporated Bull Mountain area:

- If there is a County interim Park SDC, the preferred option (Option C) is to cease annexing at property owner requests and requiring annexation as part of development approval, but instead, require consents to annex and waivers of the one year time limit on these consents so that annexations can be done in a more thoughtful and effective way. This gives the City the ability to annex immediately but also provides the discretion to wait until the boundaries are the most logical for service provision.
- If there is no County Park SDC, the preferred option (Option B) is to ensure properties are annexed prior to development by continuing to annex properties at the property owner request but also take full advantage of the double majority method and require additional properties to annex if it will create a more uniform boundary.

### Islands

A separate issue involves island annexations. Islands are lands within unincorporated Washington County that are completely surrounded by the City. Currently, there are several islands of unincorporated areas along Fern Street, which are identified on the map to the right. Council's direction on the above policy issues could result in additional islands being created.

In addition, there is a petition for annexation submitted north of Bull Mountain Road that will create an island if approved which is noted on the map below.



Because the Bull Mountain annexation vote will not include the Fern Street unincorporated island areas, the Council can consider whether to annex these areas separately utilizing the island annexation method. It should be noted that some of these parcels previously in the island have annexed prior to development. There are large parcels that could develop further, however, because they are adjacent to the City limits, they would be

required to annex (or sign consents to annex, depending on Council direction on the previous discussion item) prior to development.

The question Council must decide is how soon and in what way they want to annex islands. The options identified include:

**Option A:** Use the island annexation method and annex at this time. This method is more proactive, and might result in people being annexed against their will.

**Option B:** Do nothing immediately, but require annexation (or consents to annex) as development occurs. Because the identified islands are contiguous to the City limits, development will be required to annex before construction thereby allowing the City to collect Park SDC's. In addition, annexation of any of these island parcels will decrease the existing irregularity in the boundary.

**Preferred option:** (Option A) Because annexation is required as part of development, not acting on these islands will not result in a loss of Park SDC revenue, however, the islands do result in an irregular service boundary and it may be appropriate to move forward with annexing these areas at this time.

### **Summary**

As a result of existing annexation policy regarding the creation of uniform boundaries, the City has lost potential Park SDC's that might have been collected with new development. However, Council has several options that could minimize this trend. These options could also require amending the Comprehensive Plan, Intergovernmental Agreements, etc. There also is an issue of fairness for residents, contiguous to the city, which are not paying for city services they are receiving.

The options identified above illustrate the complexity surrounding this issue of contiguous annexation. Council needs to have a discussion on the broader policy issues before considering individual situations. One policy does not address all the individual situations. The various options impact the City's ability to collect Park SDC's; however, the County's action on an interim Park SDC could resolve that issue. The preferred options identified, however, attempt to provide a balance between being proactive and doing nothing.

It is recommended that Council begin discussion on these options and schedule subsequent discussions for a future Council meeting in October to further determine the best course of action.

## Summary of Comprehensive Plan Policies

Existing Comprehensive Plan policies regarding annexation include Policy 10.1.1, 10.1.2 and 10.2.1. Below is a brief summary of these policies.

**Policy 10.1.1** - requires that prior to the annexation of land to the City of Tigard, the City shall review services to determine that there is adequate capacity to serve the parcel, and will not significantly reduce the level of services available to developed and undeveloped land within the city of Tigard.

**Policy 10.1.2** - provides specific criteria to guide annexations. The annexation must:

- eliminate an existing "pocket" or "island" of unincorporated territory; or
- not create an irregular boundary that makes it difficult for the police in an emergency situation to determine whether the parcel is within or outside the City (police must comment upon the annexation),
- The land must be is located within the Tigard urban planning area and be contiguous to the city boundary; and
- The annexation must be able to be accommodated by services.

**Policy 10.2.1** states that the City shall not approve the extension of City or Clean Water Services (formally USA) sewer lines unless the property annexes or signs a consent to annex, or where there is a potential or imminent health hazard.



